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Woodrow Wilson's Concept of Human Nature *

ONE SUNDAY AFTERNOON, it must have been in 1884, a young man bent on earning a doctorate of philosophy at Johns Hopkins, took a long walk with one of his professors. The professor was G. Stanley Hall, who was introducing to America the new scientific study of human nature in which he had recently been trained in the Leipzig laboratory of Wilhelm Wundt, the father of modern psychology. The young man was Woodrow Wilson, and he was trying to decide whether to make psychology his major interest, or whether to become an historian and political scientist.[1] In the end, he settled for a minor in psychology with G. Stanley Hall, and it was a very minor "minor."[2] He devoted his principal efforts to writing a dissertation on congressional government.

Among the reasons which must have played a part in the decision was Wilson's antipathy toward science and especially toward the laboratory method of fact-finding and generalization. Eighteen years later, in an address at Princeton, he wrote that after due credit had been given to science in driving mystery out of the universe, he believed it had done us a disservice in breeding contempt for the past, in giving us too much hope for panaceas, in making "the legislator confident that he can create, and the phi-

* I am indebted to Francis Carney, Frederick Jackson Turner research assistant at the University of Wisconsin, for help in analyzing Wilson's early writings.

[1] G. Stanley Hall, *Life and Confessions of a Psychologist* (New York, 1923). See also Ray Stannard Baker, *Woodrow Wilson. Life and Letters* (6 vols., Garden City, New York, 1927-37), I, 234-235. Hall was so impressed by Wilson's study of congressional government that he asked him to assist him the following year in logic and psychology.

[2] Wilson was enrolled during the first and second terms in the academic year 1884-1885 in G. Stanley Hall's course "Psychology and Pedagogy." Letter from Irene M. Davis, registrar of the Johns Hopkins University, October 16, 1956.

losopher sure that God cannot." Science, he continued, "has not changed the laws of social growth or betterment. Science has not changed the nature of society, has not made history a whit easier to understand, human nature a whit easier to reform."[3] Here the humanist, the man of unquestioning religious faith, was repudiating the scientific approach to the study of mankind that he had once seriously considered devoting himself to.

Some of Wilson's Princeton friends and associates, including the distinguished biologist E. G. Conklin, believed that his ignorance of and indifference to the laboratory method of fact-finding explained why Wilson uncritically accepted his own intuitive way of reaching truth without appreciating the difficulties of arriving at tested generalizations. Conklin felt also that the lack of scientific training explained Wilson's unwillingness to recognize the relativity of truths and the importance of compromise and adjustment as the great laws of the universe.[4]

It is impossible to accept fully this verdict, for in his early writings on congressional government and on the origin of the state, Wilson did recognize the importance of adjustment in the political process.[5] Moreover, he did sometimes change his mind. At the same time it is also true, as Conklin believed, that in his inflexible adherence to an absolute truth and morality, Wilson's approach was far from that of the scientific ideal. This could be illustrated by dozens of examples. When a professor at the Princeton Theological Seminary one day said, "Well, Dr. Wilson, there are two sides to every question," Wilson quickly replied, "Yes, a right side and a wrong side."[6] In any case, at the end of Wilson's career, the now venerable G. Stanley Hall believed that if Wilson had given more attention to the study of human nature, he might have "learned to do better teamwork and have been

[3] "Princeton for the Nation's Service," an address, October 25, 1902, in *The Public Papers of Woodrow Wilson. College and State* (New York, 1929), I, 282-283.

[4] William Starr Myers, ed., *Woodrow Wilson, Some Princeton Memories* (Princeton, 1946), pp. 53-54.

[5] *Congressional Government. A Study in American Politics* (Boston and New York, 1885 and 1913), p. v.

[6] *Woodrow Wilson, Some Princeton Memories*, p. 43.

more ready to compromise and concede."[7] The remark was made just after Wilson had suffered tragic defeat in his hope of having the Senate accept his beloved League of Nations, a defeat in which his own intransigence played at least some part.

If Wilson did not follow and integrate into his thinking the new scientific study of human nature as exemplified by Hall, William James, John Dewey, and the American pioneers in the study of unconscious drives and irrational behavior, he nevertheless had a fairly clear concept of human nature. Most people of course do have some image of man, more or less vague, more or less articulated. One's concept of human nature is closely related to his social attitudes and his world view, and to the decisions he makes in his day by day activities. Wilson's view of human nature was not original. It was only one factor in shaping his whole thought, his program, and his decisions, whether as a pioneer in a relatively new concept of higher education or as a political reformer and a statesman with international power and influence. But Wilson's concept of human nature was an important factor in all these matters. And, oddly, it has received no explicit attention in the innumerable writings about Wilson.

Like others in his day, Wilson did not define the term human nature. Its meaning, or meanings, were taken for granted. When he used the phrase, as he frequently did,[8] he seems to have meant all the instincts and capacities that each human being shares, in greater or less degree, with every other human being, regardless of time and place. In some times and places, to be sure, the predominant institutions developed some capacities or tendencies and checked others. Thus, for example, Wilson held that Christian culture had enabled man to realize his capacities, had made him much more an individual, than had any of the cultures that preceded it.[9]

[7] *Life and Confessions of a Psychologist*, p. 240.

[8] For example, "On Being Human," *Atlantic Monthly*, LXXX (September, 1897), 320-329, especially 321; *Congressional Government* (New York, 1900), pp. 97, 284, 292; *College and State*, I, 283; "The States and the Federal Government," *North American Review*, CLXXXVII (May, 1908), 686; *An Old Master and Other Political Essays* (New York, 1893), p. 31.

[9] *The State* (Boston, 1889), pp. 605-609.

In his view, human nature or the minimum core in man's makeup embraces the passions and the motives arising from them. These passions, generally speaking, relate man to the world of the brutes. While some of these innate drives, notably the love of power, might be developed in such a way as to enlarge and ennoble an individual through expanding his capacity for service,[10] by and large the passions and motives springing from them might be regarded as the equivalent of the Christian concept of sin. Wilson most frequently spoke of aggressiveness, pride, and above all, selfishness. He once said that if he belonged to the body of churchmen who decided which of the seven deadly sins were most deadly, he would have no trouble in making up his mind. "If you weren't thinking first of yourself you wouldn't commit murder for money, or for revenge. You wouldn't steal another man's wife, or abscond with his fortune. You wouldn't plot against the state unless you thought you yourself would derive profit from treason." [11]

On the other hand, Wilson also thought man possesses, presumably innately, the higher emotions—a moral sense, altruism, love, aspiration. It is these that distinguish man from animals. These higher emotions, functioning more or less unconciously, enable him to unite with his fellows into families, communities, and states—unions necessary to the realization of any appreciable part of man's potentialities. In addition to the higher emotions, man is innately endowed with a capacity for reason, which still further differentiates him from the animals. The more these higher emotional-spiritual and reasoning qualities man displays in his conduct, the more human he is.

In the long and unfinished struggle of man to become more human, he has had, in Wilson's view, various allies. One is reason. Another is habit. It is habit that gives such great importance in Wilson's thought to education—the forming of proper habits. Another ally is will—an endowment enabling man to control the less desirable emotions and impulses and to give fuller play to love and altruism. In using reason, habit, and will to strengthen

[10] *Congressional Government*, pp. 194, 203-214; *When a Man Comes to Himself* (New York, 1901), pp. 21 ff.

[11] Margaret Axson Elliott, *My Aunt Louisa and Woodrow Wilson* (Chapel Hill, 1944), p. 219.

the higher moral virtues, man had helped himself, and could further help himself, to become more human.

At the same time, Wilson recognized the need of more specific approaches to resolving the dichotomy between thinking and morality on the one hand, and conduct on the other. In a lecture on "The Study of Politics," published in 1893, he suggested means for narrowing this gulf. It might be done in the field of politics if the thinker and scholar took part in the political tussles or, at the least, if he studied these at first hand. This idea of the obligation of the thinker and scholar to implement his knowledge and understanding by participation and leadership in the arena of affairs continued to haunt Wilson. It not only provided him with personal motivation. It reflected the American effort to fuse thought and action which I have explored in *An American Paradox.*

Several movements of thought were synthesized in Wilson's image of man. I can here only suggest what they were and remind you that they were also commonly shared by many—but by no means all—of Wilson's educated contemporaries.

One source of this view of human nature was, obviously, the Judeo-Christian tradition. Wilson had been brought up as a moderate or liberal Calvinist by his learned father, a Presbyterian minister, and by his devoted and deeply religious mother. He often used the term "fallen human nature," but he seems to have done so in a figurative or symbolical sense. One of his little daughters was to recall later that an immense burden was lifted when she overheard her parents saying that, after all, hell is only a state of mind.[12] At the same time, the Calvinist imprint was reflected in the importance he attached throughout his life to selfishness and aggressiveness—traits presumably lodged in man's innate nature.

While Wilson did not espouse the Calvinist doctrine of the elect—at least in any literal theological sense—he did appear to have a secular equivalent for this. He believed that the truly great leaders of men—the Washingtons, the Lees, and the Lincolns—

[12] "On Being Human," *loc. cit.*, pp. 322-323; *Public Papers of Woodrow Wilson. The New Democracy*, II, 254; Eleanor Wilson McAdoo (in collaboration with Margaret Y. Gaffey), *The Woodrow Wilsons* (New York, 1937), p. 42.

constitute a kind of elite. Their superiority rests not on blood or heritage alone, but on an ability, presumably innate but self-developed rather than nurtured by others. And their distinguishing role is their ability to understand and serve all groups, sections, classes, and even nations without ceasing to be true to themselves. These leaders further possess an ability to express the inarticulate aspirations of the groping masses and to point the way toward the realization of these yearnings.[13]

Wilson's more or less secular equivalent for redemption and grace was twofold: a humanizing education which lifted the individual above his own narrow interests by introducing him to and making him in some measure part of the truly great spirits and leaders of all times; and the realization of one's moral potentialities through the cultivation of the will to fight evil, in one's self and in one's environment, to the end that righteousness should triumph. And though defeat might come in the struggle, still, in the end, there could be only redemption, only the triumph of right, only the true rule of God. In this sense, Wilson was a predestinarian.

But the Calvinist heritage, mellowed and in part translated into secular equivalents, was only one layer of thought in Wilson's concept of human nature. His confidence in the natural virtues of man related him also to certain eighteenth century currents of thought. He cited the argument in Adam Smith's *Theory of Moral Sentiments* to the effect that even in economic endeavors, men are sometimes moved by love, benevolence, sympathy, charity. He did not dissent from Smith's emphasis elsewhere on the idea that in economic endeavors "selfishness was unquestionably the predominant force."[14] Yet Wilson could not keep out of his mind a conviction of the general natural goodness of man. Thus he once told his daughter Eleanor that "most people are fundamentally good—of that I am sure. Don't let a few cheap and dishonest ones hurt you."[15] Deprecating the cynicism issuing

[13] *Mere Literature and Other Essays* (Boston and New York, 1896), pp. 206-208, 242-246; *Leaders of Men*, edited by T. H. V. Motter (Princeton, 1952); "Leaderless Government," Address, August 4, 1897 in *College and State*, I, 336-367.

[14] *An Old Master and Other Political Essays*, pp. 16-17.

[15] Eleanor Wilson McAdoo, *The Woodrow Wilsons*, p. 259.

from a realization that a few people are cheap and dishonest, he always found a large place in man's makeup for natural goodness, for idealism and altruism.

Still other layers or levels of thought can be detected in Wilson's image of man. His revered uncle, Dr. James Woodrow, had been penalized by the South Carolina presbytery for championing evolutionary doctrines, and Wilson's parents took his side. At some point Wilson himself accepted, at least in broad outline, an evolutionary point of view. His early books, *Congressional Government* and *The State*, attached great importance both to habit and to the adaptation of the organism to its environment.[16] Essentially an institutionalist, Wilson did not believe that the family, the community, or the state developed all at once from a clearly defined plan. He held rather that man's institutions, like the rest of the organic universe, evolved more or less unconsciously, with habit and adjustment the key factors. Although there is little to indicate that he applied this evolutionary conception explicitly to human nature, he believed that in the long stretch of recorded history man had become more human. By this he meant that he had developed in greater degree those qualities that set him off from all other creatures—reason, will, morality, altruism, love. In subsequently discussing Wilson's position on the question, Can human nature be changed? I shall return to the important role he attached to environment—a role reflecting the influence of the evolutionary conception on his thought.

From the Germans that he studied, from E. A. Freeman, who lectured at Johns Hopkins, and from his own major professor, Herbert Baxter Adams, Wilson absorbed the then prevalent idea that races differ in certain capacities. These included the capacity for self-government. Like his mentors and like so many leading scholars in the 1880's and 1890's, he believed that the Anglo-Americans possess such a capacity in greater degree than other peoples. The crowding into America of immigrants from southern and eastern Europe gave him, as it did many other well educated Americans, deep concern. "Our own temperate blood, schooled to self-possession and to the measured conduct of self-government,

[16] *Congressional Government*, pp. v, 194; *The State*, p. 2.

is receiving a constant infusion and yearly experiencing a partial corruption of foreign blood. . . . We are unquestionably facing an ever-increasing difficulty of self-command with ever-deteriorating materials, possibly with degenerating fibre." In his *History of the American People* he wrote that "multitudes of men of the lowest class from the south of Italy and men of the meaner sort out of Hungary and Poland, men out of the ranks where there was neither skill nor energy nor an initiative intelligence" could never become, even in a favorable American environment, Americans in the true sense of the word.[17] When in the Presidential contest of 1912 Italian-Americans and Hungarian-Americans pointed out this statement, Wilson, much embarrassed, made such explanations and apologies as he could. In fact, however, he seems at no time to have been unqualifiedly explicit in attributing the lesser capacities of some people to innately acquired differences. At times his words suggest that he attributed racial traits to biological heredity, at other times to environmental conditioning or experience. In other words, he seems to have left the question open.

The difficulty of deciding what he felt on this matter can be illustrated in his comments on the role he thought his racial heritage played in his own personality. Just after he had been nominated for the Presidency in 1912, he told his secretary, Joseph Tumulty, that there were two natures in him "that every day fight for supremacy and control. On the one side, there is the Irish in me, quick, generous, impulsive, passionate, anxious always to help out and to sympathize with those in distress. Then, on the other side, there is the Scotch—canny, tenacious, cold, and perhaps a little exclusive. I tell you, my dear friend, that when these two fellows get to quarreling among themselves, it is hard to act as an umpire between them." [18]

Wilson's reading of his own personality in terms of what he called racial heritage is only one example of the way in which

[17] *Atlantic Monthly*, LXVII (May 1891), 694-699; *An Old Master*, p. 126; *A History of the American People* (5 vols., New York, 1902), V, 212-214.

[18] Joseph R. Tumulty, *Woodrow Wilson as I Know Him* (Garden City, 1921), p. 457; James Kerney, *The Political Education of Woodrow Wilson* (New York, 1926), p. 124.

his image of himself influenced his conception of human nature and of the manner in which his conception of human nature helped shape his own self-analysis. He recognized his own powerful emotions and resented it when people thought him all brains. "It is no compliment to me," he remarked, "to have it said that I am a great intellectual machine. Good heavens, is there no more in me than that?" [19] Or again: "If I were to interpret myself, I would say that my constant embarrassment is to restrain the emotions that are inside me. . . . I sometimes feel like a fire from a far-from-extinct volcano, and if lava does not seem to spill over it is because you are not high enough to see the cauldron boil." [20] On another occasion he reminded his hearers that "we are governed by our emotions very much more than we are by our reason." [21] But he believed, and correctly, that for the most part he controlled his emotions through reason and will, and thus naturally assumed that what he could do, others could also do.

Wilson's primary emphasis on the individual's ability and obligation to control his emotions in the light of an absolute standard of morality, may have reflected his own sense of inadequacy and insecurity. His emphasis on the importance of love and understanding as components of human nature may have been related to the fact that his own great need of these was satisfied only in the bosom of his family or by his closest intimates. In short, Wilson's conception of himself helped shape his conception of human nature, along with his heritage of Calvinism, and the impact of eighteenth century rationalism and humanitarianism and nineteenth century evolutionary doctrine.

One may ask here whether Wilson believed that human nature is a constant, alike in all times and places, or whether he supposed it to be sufficiently plastic to experience change. We have no evidence that he explicitly committed himself to one or the other side in the famous controversy over the greater role of nature or nurture. Yet it is important in considering the role of his ideas

[19] William Allen White, *Woodrow Wilson, the Man, His Times, and His Task* (Cambridge, Mass., 1924), p. 282.
[20] *The New Democracy*, I, 94; *War and Peace*, I, 346.
[21] *The New Democracy*, II, 227.

about human nature in his decisions and in his career, to consider the implications of his image of man for this moot question.

Wilson of course could see that we are all shaped both by our biological inheritance and by our training and social or cultural environment. For instance, he remarked of his father that his "innate and acquired abilities" far exceeded his own. But this recognition of the role in human behavior of both heredity and environment lacked precision and consistency. He seems to have given little careful or critical consideration to the new developments in genetics during the first decade of the twentieth century or to have clarified his position.

Thus there is some evidence to suggest that he fell in with the ideas of those who held to the biological inheritance of complicated behavior tendencies and traits. In discussing individual temperament and racial characteristics in institutions, Wilson sometimes seems to have associated these with biological heritage. As governor of New Jersey he signed a sterilization bill.

On the other hand, he also attached great weight to environmental factors. He stressed the importance of forming good habits through education, of the role of institutions and of environment generally in strengthening or in weakening mental abilities and emotional impulses. This could be illustrated by numerous references in his writing and reported remarks. Thus in saying that Lincoln owed nothing to heredity, and everything to experience, Wilson was underlining his conception of the importance of environment and nurture.[22]

In a more important sense, the weight Wilson attached to education reflected his conception of the potential importance of cultural and environmental factors in shaping behavior, private and collective. The devoted president of a great Ivy League college, Wilson supported public education on the ground that it develops more self-reliance and less snobbish selfishness than private schools. His dramatic effort to democratize the Princeton eating clubs and graduate school was also related to this conviction.[23] Consider further his emphasis on education of a face to face sort, the basis

[22] *Mere Literature and Other Essays*, p. 240.
[23] Eleanor McAdoo Wilson, *The Woodrow Wilsons*, p. 52.

of his famous forward-looking introduction of the tutorial system at Princeton. This innovation assumed that the kind of education one has is directly related to the probable achievement of one's full individual capacities.

In the field of public policy, many examples of the weight he put on environmental factors come to mind. One was his desire to maintain through appropriate legislation equal opportunity for all. This was the basis of the New Freedom policy which he forwarded with impressive success in his first Presidential administration. His program, an amplification of that he initiated as governor of New Jersey, reflected his distrust of monopoly capitalism, which he regarded as a closed system inimical to the full and free development of the little man's legitimate aspirations to make his living and improve his lot. Recall, too, Wilson's eloquent addresses to the American people, his appeals to their idealism, and the blessing he bestowed during the First World War on those designated, in the words of the day, to "sell" the war to the American people. These and many other things suggest the important role he assigned to environmental factors in controlling and giving direction to the varying and conflicting components of human nature.

Wilson's belief in the importance of experience and environment is especially apparent in his discussion of national character—a theme which in our own time is the subject of some controversy among social scientists. Wilson agreed with Frederick Jackson Turner—perhaps he was the first prominent historian to do so—that the frontier enviroment in America has created a new type of man. The new man is, Wilson held, more adaptable, more ready to help others, than the type characteristic of ancient and settled regions. "No other modern nation," Wilson wrote in 1901, "has been schooled as we have been in big undertakings and the mastery of novel difficulties. . . . We have become confirmed, also, so far as our character is concerned, in the habit of acting under an odd mixture of selfish and altruistic motives. Having ourselves a population fit to be free, making good its freedom in every sort of unhampered enterprise, determining its own destiny unguided and unbidden, moving as it pleased within wide boundaries, using institutions, not dominated by them, we have sympathized with

freedom everywhere; have deemed it niggardly to deny an equal degree of freedom to any race or community that desired it." [24]

Yet Wilson did not approve of the revolt Aguinaldo had been leading for the independence of the Philippines, which we had recently acquired from Spain. We should, he felt, exact obedience, as teachers of children who had not yet proved their capacity for the self-government which in time, when they had earned it, would be their rightful due.

Another instance of Wilson's emphasis on environmental factors is the comment he made in the preface to *Congressional Government* to the effect that all living things are subject to constant modification alike of form and function. More specifically, his recognition of the importance of environment is evident in his belief that modern city life has become too complex, too specialized, too tempestuous, to permit the development of the wholeness of man: urban life quickens some powers, but curbs others.[25]

In emphasizing the role of popular education, communication, and the growing similarities of cultural environments, Wilson was thinking in terms of what might be called the improvability of human nature. In a notable essay published in 1897 entitled "On Being Human," he argued that it is society, with its ever-growing knowledge, its pressure for self-restraint, the broadening avenues of new means of communication, that has actually humanized man:

> Who can doubt that man has grown more and more human with each step of that slow process which has brought him knowledge, self-restraint, the arts of intercourse, and the revelations of real joy? Man has more and more lived with his fellow-men, and it is society that has humanized him. . . . He has been made more human by schooling, by growing more self-possessed, less violent, less tumultuous; holding himself in hand, and moving always with a certain poise of spirit. . . . This is our conception of the truly human man: a man in whom there is a just balance of faculties, a catholic sympathy—no brawler, no fanatic, no Pharisee; not too credulous in hope, not too desperate in purpose; warm, but not hasty; ardent, and full of definite power, but no running about to be pleased and deceived by every new thing.[26]

[24] *College and State*, I, 404; quoted with the permission of Mrs. Edith Bolling Wilson.

[25] *Atlantic Monthly*, LXXX (September, 1897), 321-322.

[26] *Ibid.*, pp. 322-323.

These words may be supplemented by Wilson's remark that "you distinguish man from the brute by his intelligent curiosity, his play of mind beyond the narrow field of instinct, his perception of cause and effect in matters to him indifferent, his appreciation of motive and calculation of results. . . . Your full-bred human being loves a run a field [*sic*] with his understanding." [27]

While Wilson believed that the long view of human nature owed much to the classical writers, to the rich experience of man in the past, he also held that man could become, was becoming, more human. In other words, human nature was changing, and for the better. One of the clearest expressions of this faith was his insistence, in the 1897 essay, that the needs and problems of the new age were bringing forth new human capacities, or older capacities in a more intensified and, at the same time, widely dispersed form. As the age changes, so we must change our ideals of human quality, he said. We do not give up what we have loved, but we add what a new life demands. "In a new age men must acquire a new capacity, must be men upon a new scale, and with added qualities." [28] And in a new spirit of education, broadly defined, Wilson saw the chief means by which the new man was to be born—an education for service to fellow-man. The idea that this new spirit was akin to religious regeneration is perhaps the key to Wilson's whole thought on the question whether human nature can be changed. That is to say, Wilson reconciled in his thinking "fallen human nature" with "progress" by fusing education and regeneration.

In view of Wilson's place in modern world history, any of his ideas on any subject of consequence have, of course, interest. But what lends special significance to Wilson's concept of human nature is the role it played in the activities in life that seemed important to him.

These included in the first place his relations with his own family. What can be said of the implications of his conception of human nature for what so many social scientists now call child-rearing? In dedicating himself to an academic career, in secluding himself in his study where the steady click of his type-

[27] *Ibid.*, p. 325. [28] *Ibid.*, p. 323.

writer could be heard day and night, he left to his wife the care of his three daughters and young nieces and nephews who lived in the household. He did see the children at mealtime and for an hour after dinner, when the group sang, played games, or listened to Wilson read aloud. But his attitude was not exactly permissive. We know from *The State*, one of his early books, that he attributed the origin of political societies to the patriarchal family. In its authoritarian management of the young, the patriarchal family was best suited for survival in an age of violence. Even today, he continued, "it is the proper object of the family to mould the individual, to form him in the period of immaturity in the practice of morality and obedience."[29] When someone suggested starting a kindergarten in Princeton, Wilson frowned on the proposal. In the eyes of tender children, the kindergarten did not distinguish between work and play, a necessary distinction, he held. When Princeton undergraduates who called on his daughters began to show serious interest in them, papa made his displeasure so clear that Eleanor once jokingly remarked that it was a miracle any of them ever married.

On the other hand, Wilson was eager to have the girls develop independence. He therefore championed one of the girls, Margaret, in her desire to enter college at the age of fifteen. But as daughter Eleanor did not want to go to college, he made no effort to persuade her to do so. Certainly all the girls idolized their father as well as their mother, and made it amply clear in their behavior that they wanted to please their parents, did not want to fall short of what was expected of them.

Wilson's conception of the unique characteristics of women as women affected not only the attitude he took toward his family, but also his disapproval of the movement for woman suffrage until late in his career. It was not that he accepted the Pauline view of the innate mental inferiority of women. It would have been hard for him to do so in view of the superior gifts of his first wife, Ellen Axson. In addition to bringing up a big family on a professor's salary, Mrs. Wilson read Hegel and Kant in the original, explained their philosophies to her husband, and translated and abstracted German treatises for his use in writing *The State*. Many

[29] *The State*, pp. 24, 666.

in a position to know thought that she was also a shrewder politician than her husband, and Wilson respected and depended on her judgment. Thus, probably having in mind her superior intellectual gifts and his own intuitive mode of thought, he said that he thought women are more logical than men.[30] He appreciated also the superior talents of the second Mrs. Wilson. He befriended Goucher College, the alma mater of two of his daughters—Margaret and Jessie. The notes in the Wilson manuscripts for an address to be given at Goucher, dated June 3, 1908, indicate that he conceived of the purpose of the higher education of women in terms essentially similar to those he regarded suitable for men—the only difference being that he thought college education ought to make women "more intelligently womanly," just as it ought to make men "more intelligently manly."[31] On the other hand, his reluctance to approve of woman suffrage, which he identified with the "masculinized woman," reflected a Pauline—and a Southern Victorian—conviction that the proper place for women is in the home.

Other examples of the influence of Wilson's concept of human nature in public issues come readily to mind. The ambition, aggressiveness, and selfishness which he believed deeply ingrained in human nature seemed evident to him in the behavior of business monopolies, tariff lobbies, and labor unions. Nor were government bureaucracies exempt. "There are," he remarked in speaking of these, "two kinds of men who come to Washington, those who swell, and those who grow, and the former are greatly in the majority."[32] Yet Wilson appealed to all these groups to rise above mere self-interest. In his view, it was as possible for them to do so by will-power and by determination to abide by an absolute standard of right and wrong, as it was for an individual in his more personal and private relationships.

[30] Stockton Axson, "Woodrow Wilson as a Man of Letters," *Rice Institute Pamphlets*, XXII, no. 4 (October, 1935), 199-220.

[31] I am indebted to Mr. David C. Mearns, Chief, Division of Manuscripts, Library of Congress, for searching for these notes and for having a verifact made of them for me.

[32] *The New Democracy*, p. 174; David F. Houston, *Eight Years with Wilson's Cabinet* (2 vols., New York, 1926), I, 162.

But Wilson recognized that appeals to altruism are not always sufficient, just as he repudiated the idea of the classical economists that even "enlightened self-interest" on the part of business men is necessarily coincident with the public good. Thus, contrary to a view now widely held, he advocated as early as the 1880's, the necessity of government regulation of big business. He expressed doubt in his second important book, *The State* (1889), that the righteous businessmen would win out in the ruthless competition of the day unless government intervened to outlaw amoral practices by which the big fellow exploits the little.[33] Of course he went much further as reform governor of New Jersey and as the New Freedom President. But it is not too much to say that his social reform program rested on his early conviction that the enlightened self-interest of business is not necessarily the same as the public interest and that, further, it is unrealistic to expect powerful and greedy business men, especially in corporations, themselves to restrain their selfish and aggressive impulses. It seems fair to say that such success as Wilson had in nationalizing the movement to control business in the public interest was definitely related to this realistic note in his concept of human nature.

Wilson seems to have held that the tendency to fight is as deeply based in human character as the tendency to compete unfairly. But with William James he believed that the fighting impulse can be channeled against evil and harnessed to good ends, just as he believed that the impulse men have to wield power may be beneficially channeled into public service. If war is designed to end an evil that yields to no other techniques, then and then alone is it justified. When the aggressive tendencies of governments or peoples are no longer self-restrained or held in check by the persuading efforts of others, then collective action in the interest of such restraint becomes necessary. It was this application of his conception of the need in certain situations of restraining aggressive impulses being used for evil ends that figured in Wilson's painfully reached decision to take up arms against the Germans in 1917.

Yet he realized the great danger of using force even as a last resort—his whole emphasis, as we have seen, had been on habit,

[33] *The State*, pp. 663-664.

adjustment, discussion, reason, and moral appeals in the political process rather than on force. If we can trust the report of Frank Cobb, editor of the New York *World*, who was with Wilson the night before he read his war message to Congress, the President believed "we couldn't fight Germany and maintain the ideals of Government that all thinking men shared." He said, "We would try it but it would be too much for us. Once lead this people into war . . . and they'll forget there ever was such a thing as tolerance. To fight you must be brutal and ruthless, and the spirit of ruthless brutality will enter into the very fibre of our national life, infecting Congress, the courts, the policeman on the beat, the man in the street." Conformity would be the only virtue, and, the President added, "every man who refused to conform would have to pay the penalty." [34] In other words, Wilson here realized the difficulty of coupling what was reasonable and moral with force even in the service of the larger ends of humanity.

This intuitive insight into collective behavior in a war situation which he expressed to Cobb was not sustained and did not guide Wilson as the war leader. Nor did his dual conception of man's selfishness and altruism prove an adequate instrument either in diagnosing many situations he had to diagnose or in making many decisions he was called on to make. Thus, during the early stages of the First World War, before the die was cast to enter it, Wilson occasionally spoke of the selfishness motivating the belligerents on both sides. At the same time he spoke, somewhat inconsistently, of the idealism of the British and the French who, he felt, were heroically struggling to save civilization from the brutal German throngs. This paradoxical position was not abandoned. For during the peace negotiations following the armistice, Wilson recognized the selfishness that motivated the Allies at the very time that he overestimated their altruism. The trouble was that he relied too much on generalities—selfishness and altruism—that he did not sufficiently analyze or understand the nature, function, and meaning of these conflicting motives and their emotional basis.

One complication of his belief in an innate moral sense was to have great importance for his leadership during the First World

[34] John L. Heaton, *Cobb of the World* (New York, 1924), pp. 269-270.

War and in structuring the League of Nations, which, he thought, was to consummate the war to end war. Early in his professional career he had written in *The State* that "there is a common legal conscience in mankind," and that international law rests upon "those uncodified, unenacted principles of right action, of justice, and of consideration which have so universally obtained the assent of men's consciences, which have so universal an acceptance in the moral judgments of men everywhere." [35] Here Wilson was describing as a universal trait in human nature a concept and an ideal deeply rooted in Western civilization and nurtured anew in middle class America. But even in Europe and America, it was subject to disintegration or crisis, under sufficient strain. In the past quarter of a century, we have seen this doctrine discredited in the lust, violence, and reckless disregard of morality in Europe. We have also seen it dangerously threatened in the late crisis in human decency and civil liberties in our own country.

It is interesting to speculate whether a clearer recognition on Wilson's part of the relativity to culture and to situations of what he deemed a universal and absolute moral trait would have enabled him to be a better architect of permanent peace. It is quite possible that this might have been the case. One can say with more certainty that his failure to appreciate the cultural relativism and potential weakness under strain of a concept of human nature he regarded as universal, only accentuated the tragic failure he lived to witness in the early 1920's and the even more tragic failure he did not live to see in the 1930's.

Wilson's theory of the active leader and the passive mass also led him somewhat astray. He did, to be sure, succeed remarkably well in transcending self-interest and in linking leadership with a noble cause. But he was wrong in assuming the enduringly effective quality of the moral altruism of the masses in a moment of ecstatic release from the privation and horror of war. He had come to identify redemption with democracy. His belief in the redeeming virtues of the mass of men was a secular equivalent for the theological doctrine of redemption from sin. The peace of the

[35] *The State*, p. 625; Harley Notter, *The Origins of the Foreign Policy of Woodrow Wilson* (Baltimore, 1937), p. 54.

world, he believed, was to be insured, not by compacts, but by the sympathies of men, once these had through leadership been transmuted into effective action by something corresponding to conversion and redemption. He had himself come to be the redeemer, bringing salvation to be dispensed at the Paris peace table. But he learned only with great pain that such popular enthusiasm as he had evoked in the capitals of Europe after the armistice did not really represent an altruism separate from, and superior to, the selfishness displayed by the negotiating diplomats at the Paris peace conference, a selfishness acceptable to a sufficiency of those in whose name they spoke.

In emphasizing the inadequacy of these aspects of Wilson's view of human nature as an instrument for helping him effect noble as well as desirable ends, I do not suggest that we can entirely dismiss an older and widely held view. That view of course is that Wilson in the end failed because he was too inflexible in his adherence to an absolute moral standard to make the concessions and compromises which key Senators demanded as the price for American acceptance of the League of Nations. Wilson had on many occasions shown an ability to change his mind and to get along with people whose views he did not share. He had emphasized, in his early writings especially, the idea that habits are deep-rooted and that in the course of life's drift, adjustments, conscious and unconscious, constantly take place in all living organisms, including the state. But for whatever reason, this realistic conception now failed him. The concept of human relations in terms of give and take, of adjustment without benefit of consciously implemented purpose, now failed him. Perhaps it was because of his critical illness and isolation. Perhaps it was because he sought compensation for his sense of inadequacy in unyielding reliance on an absolute morality. The wonder, and the pity is, that one who as an historian knew full well the gradualness of change and who was an exponent of the force of habit in human behavior, now in the greatest hour of crisis and decision, seemed to have forgotten all this. And the tragedy of failure also was that Wilson's great emphasis on the force of will and adherence to absolute canons of right and wrong led him to misinterpret the realities of a given situation.

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Notes on James Madison's Sources for the Tenth Federalist Paper

THE TENTH *Federalist Paper* ranks as perhaps the most significant contribution to the theory of government ever written by an American. Its uniqueness consists in the resolution of a dilemma which permeated the political thought of the day. The dilemma arose out of a series of propositions on government which were in their essentials common to John Adams, James Wilson, and to a lesser extent, Thomas Jefferson, as well as to James Madison. The logic is clearly identifiable. The weakness of human nature makes all power in human hands liable to abuse. Therefore, government, as an agency of power conducted by men, must be controlled. This control can be made effective by a division of power among levels of government and a separation of power among the branches of any given level of government. To stabilize the entire process, the machinery of the Constitution must be adhered to, even to the occasional sacrifice of strict principles of right and justice. In contests of power which arise under the Constitution, an attitude of compromise must prevail, although in the final analysis the deciding factor must be the admittedly fallible will of the majority, since any other basis of decision gives rise to even greater errors and evils. Finally, the whole fabric of government has justification only in so far as the fundamental rights of the citizens are preserved. The implicit faith is significant. In spite of the frailties of human nature, the ingenuity and virtue of mankind *are* sufficient to permit the organization and operation of systems of government which protect the natural rights of man.

In coming to his crucial resolution, Madison made a great and unique contribution to political theory. This contribution is gra-

phically apparent in a comparison of the ninth *Federalist Paper* written by Hamilton and the tenth *Paper* written by Madison. Both address the utility of a union of thirteen states as opposed to the widely held opinion that popular government, to be effective, must have a limited extent. The weight of the political authorities of the ages was against those who upheld a large, yet free government. In the *Politics*, Aristotle had argued that "if the citizens of a state are to judge and to distribute offices according to merit, they must know each other's characters. . . ." In a large state, the decisions and elections "are manifestly settled at haphazard, which clearly ought not to be." The only answer, Aristotle asserted, was that "the best limit of the population of a state is the largest number which suffices for the purposes of life, and can be taken in at a single view." [1]

Of even more direct impact was the blunt opinion of the great Montesquieu, revered in America for his doctrine of separation of powers, and, after Locke, perhaps the political philosopher who most influenced the founding fathers.[2] In his celebrated chapter on the distinctive properties of a republic, Montesquieu stated that "it is natural for a republic to have only a small territory." More specifically,

> In an extensive republic, the public good is sacrificed to a thousand private views; it is subordinate to exceptions and depends on accidents. In a small one, the interest of the public is more obvious, better understood, and more within the reach of every citizen; abuses have less extent, and of course are less protected.[3]

In the ninth *Federalist Paper*, Hamilton dealt with the question of the extent of the republic in the traditional fashion. He pointed out that "the utility of a confederacy, as well to suppress faction and to guard the internal, as to increase their external force and security, is in reality not a new idea." Hamilton then shrewdly quoted Montesquieu himself on the advantages of power that accrue to a confederated state, and cited the ancient Lycian Con-

[1] Aristotle, *Politics*, Modern Library, Book VII, Chap. 4, p. 288.

[2] See Paul M. Spurlin, *Montesquieu in America, 1760-1801* (Baton Rouge, 1940) for a detailed account of this influence.

[3] Charles Baron de Montesquieu, *The Spirit of Laws* (London, 1777) translated from the French, Vol. I, Book 8, Chap. 16, p. 158.

federacy "to illustrate the tendency of the Union to repress domestic faction and insurrection."[4] Obviously, with the picture of Shay's Rebellion fresh in his mind, Hamilton felt that the added force of the Union was necessary to put down internal strife. Note that the emphasis is on power and suppression—the various factions and groups into which human society is driven in its selfishness and greed must be coerced into submission by a government strong and large enough to handle any particular faction.

Devoted to republican principles of freedom and government by consent, this justification for strengthening the Union was thoroughly unsatisfactory to Madison. Since the cause of faction in any society was rooted in the diverse and conflicting interests in the nature of man, a theory of government based on a repression of these tendencies was "unnatural" and inimical to the requirements of a free life. As Madison put it in the tenth *Federalist Paper*, there were two ways of curing the admitted mischiefs of faction—remove its cause or control its effects. The two possible ways of removing the cause, destroying liberty or "giving to every citizen the same opinions," were unjust and impossible respectively. The Hamiltonian method of controlling the effect was heavy-handed and oppressive. Did another alternative exist? was the great question to be decided.

The possibility of a "republican answer to this republican dilemma" was visible in Madison's thought for many years before the *Federalist Papers* were written in the fall of 1787. In a letter to William Bradford written thirteen years earlier, Madison remarked that if the Church of England had been established in the northern Colonies as it was in Virginia, instead of the multiplicity of sects which characterized Pennsylvania and her neighbors, "slavery and subjugation might and would have been gradually insinuated among us."[5] Instead, a diversity of religions made religious freedom not only possible, but almost necessary. In one of his first letters from Philadelphia after taking his seat in the Confederation Congress, Madison observed that "in a multitude

[4] Alexander Hamilton, "Federalist Paper no. 9," Henry Cabot Lodge, ed., *The Federalist* (New York, 1900), pp. 47-51.

[5] Letter to William Bradford, Jan. 24, 1774, Gaillard Hunt, ed., *The Writings of James Madison* (9 vols., New York, 1904), I, 19.

of counsellors there is the best chance for honesty, if not of wisdom."[6] As the Revolution drew to a close, Madison argued that the federal government was the only agency which could properly reconcile the conflicting claims of the states on the subject of war debts and finances, because only in its enlarged councils would all the various interests be represented.[7] Finally, there was a complete and succinct resume of the ideas of the tenth *Federalist Paper* at the end of Madison's analysis of "The Vices of the Political System of the United States," written in April of 1787.[8]

Although it is likely that the principal source of the concept Madison evolved came from his observations of the mollifying effects of multiplicities in dealing with tyrannical tendencies of all kinds, there is one especially significant written source, available to Madison, and to which he might have turned.[9] In a number of essays, such as "Of the First Principles of Government," "Of the Independence of Parliament," and "Of Parties in General," David Hume outlined practical theories of government taking cognizance of the origin and importance of factions that were very similar to the ideas Madison held on these subjects. In the essay "Of Parties in General" especially, there is a discussion of factions so close to that of Madison's in both the tenth *Federalist Paper* and a letter to Jefferson of October 24, 1787 containing almost the same words as to suggest the possibility that Madison had direct access to Hume's essay.

[6] Letter to Edmund Randolph, May 1, 1781, *ibid.*, I, 135.

[7] Notes for a speech in the Congress, Feb. 21, 1783, *ibid.*, I, 382.

[8] *Ibid.*, II, 368-369.

[9] There are, of course, many sources on the idea of separation of powers and balance of forces as desirable political concepts. Aristotle espoused the virtues of "mixed government," and Polybius in his *Histories* developed a complicated scheme of cycles of history which purported to show that an "unbalancing" of the cycle was the source of greatest danger (*The General History of the Wars of the Romans*, Book I, Chap. I.). Lord Bolingbroke in Letter II of *Letters on the Study and Use of History*, and no. 287 of the *Spectator Papers*, "On the Civil Constitution of Great Britain," by Joseph Addison are other sources of balance of power ideas known to have been familiar to Madison. And, Montesquieu himself, except for the specific chapter on small republics, was a great advocate of dispersal of power. In his doctoral dissertation, "Intellectual Origins of Jeffersonian Democracy" (Yale, 1944), Douglass Adair has made a detailed study of these various sources.

Of greatest interest in searching for an answer to the problem factions presented to republican government, however, was Hume's essay on an "Idea of a Perfect Commonwealth." After outlining a complicated and impractical plan for reorganizing and refining the government of Great Britain, Hume proceeded to a discussion of the proper size for a republic:

> We observe . . . the falsehood of the common opinion that no large state . . . could ever be modelled into a [republican] commonwealth, but that such a form of government can only take place in a city or small territory. The contrary seems probable. Though it is more difficult to form a republican government in an extensive country than in a city, there is more facility, when once it is formed, of preserving it steady and uniform, without tumult and faction. . . . Democracies are turbulent. For however the people may be divided or separated into small parties, their near habitation in a city will always make the force of popular tides and currents very sensible. . . . In a large government, which is modelled with masterful skill, there is compass and room enough to refine the democracy. . . . At the same time, the parts are so distant and remote, that it is very difficult, either by intrigue, prejudice, or passion, to hurry them into any measures against the public interest.[10]

From this background of reading and experience, Madison turned in the tenth *Federalist Paper* to the solution of the same problem

[10] David Hume, "Idea of a Perfect Commonwealth," *Essays, Literary, Moral, and Political* (London, 1870), pp. 307-308.

Proof of Madison's acquaintance with Hume's writings in 1787 is conclusive. Rev. John Witherspoon came to Princeton as president in 1768, one year before Madison matriculated there. Witherspoon had known Hume in Scotland, and his lectures to Princeton students were full of references to Hume. Hume's *Essays* were prominent on Witherspoon's reading lists. See Witherspoon's "Lectures on Moral Philosophy" copied by John E. Calhoun, 1774, and "Lectures on Eloquence" copied by William Bradford, 1772, deposited in the Rare Books and Manuscripts Division, Firestone Library, Princeton University. Letters to Madison from Stanley Stanhope Smith in 1778 assumed Madison's intimate acquaintance with Hume's ideas. Smith's letters are in the Madison Papers, Library of Congress. The list of books Madison suggested for a proposed Library of Congress in 1783 contained both Hume's *Essays* and *History of England*. See Fulmer Mood, "The Continental Congress and the Plan for a Library of Congress in 1782-1783," *Pennsylvania Magazine of History and Biography*, LXXII, No. 1 (January, 1948), 20-24. Finally, Madison referred to Hume's *History* in some notes he used in the Virginia Convention of 1788, now deposited in the Madison Papers.

for which Alexander Hamilton had recommended the force and suppression which a large government could exercise. Madison summarized as follows:

> The smaller the society, the fewer probably will be the distinct interests and parties composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party. . . . Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. . . .
>
> The influence of factious leaders may kindle a flame within their particular states, but will be unable to spread a general conflagration through the other states. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it. . . .
>
> In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican Government.[11]

The importance of Madison's remarkable and original contribution is even greater than appears on the surface, when its setting is recalled. Political philosophers from Aristotle to Montesquieu had insisted that however ideal self-government might be for small societies, it was impractical in large countries. Furthermore, there was almost universal agreement in the eighteenth century that "democracy" was a nasty word—it meant tumult, violence, instability, mob rule, and bloody revolution. In *Federalist Paper* no. ten, Madison slew the twin enemies of free government in the United States by turning their swords against each other—the extent of the country would control the tumult and violence of self-government.

[11] "Federalist Paper no. 10," Lodge, ed., *The Federalist*, 58-60.

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Lawyers and American Politics: A Clarified View

THE OBSERVATION that there is an affinity between lawyers and politics is a commonplace of the literature of political science.[1] In all the Western democracies the law has been the dominant occupation of politicians and the lawyer's importance has reached its highest point in the United States.[2] Many reasons have been proposed for this phenomenon, but for the most part they have been unrefined and untested inferences based upon the original observation.

It is the purpose of this paper to analyze the relation between lawyers and politics more closely on the basis of empirical data. The data have been gathered from the careers of men who were elected governor of the American states in the period from 1870 to 1950. From an examination of their careers three hypotheses have been advanced. (1) The compatibility of the professions of law and politics operates to the advantage of lawyers primarily when they are career politicians. (2) The lawyer's advantage in politics derives not so much from generalized political skills as from specific legal skills which give him a monopoly of offices

[1] For example, Max Weber, "Politics as a Vocation," *Essays in Sociology*, ed. and trans. by H. Gerth and C. Mills (New York, 1946), pp. 94-95; Harold Laski, *Studies in Law and Politics* (New Haven, 1932), p. 197.

[2] Donald R. Matthews, *The Social Background of Political Decision-Makers* (Garden City, N.Y., 1954), p. 30, has an excellent summary table of various studies of American politicians. Of American congressmen in the period 1949-51, 57 per cent were lawyers. In the British Parliament 23 per cent of the members from 1918-35 were lawyers, and in the French National Assembly elected in 1951 there were 15.4 per cent lawyers. J. F. S. Ross, *Parliamentary Representation* (New Haven, 1944), p. 77; Mattei Dogan, "L'Origine Sociale du Personnel Parlementaire Francais," in *Partis Politiques et Classes Sociales en France*, ed. by M. Duverger (Paris, 1955), p. 309.

related to the administration of law in the court system. (3) There are regional differences in the extent and character of the lawyer's dominance in American politics.

The most widely accepted reason given for the distinctive position of lawyers in politics is that in modern capitalist society the law is the profession most compatible with a political career.[3] Politics is both a part time and a hazardous profession. A fortunate politician has some other source of income which is not upset by the discontinuities of a political career. Presumably the lawyer's trade is more flexible than that of the businessman or of other professionals. At the same time, the law itself changes so slowly that a lawyer can return to his private practice without much loss of skill, especially if his political activity has had anything to do with the making and interpretation of laws. It is not surprising that young men with political ambitions tend to study the law, for occupationally it is the best hedge against the ever-present possibility of failure in politics.

Not only, is it asserted, are lawyers less subject to the hazards of politics, but as a group they are more likely to gain positively in their private affairs from political activity. Political campaigning is generally regarded as an effective form of ethical advertising. In addition, political activity provides lawyers with the kinds of experience and contacts which can aid their private trade. Given the professional advantages of a political career to the lawyer, the compatibility explanation asserts that lawyers are more willing and eager to enter politics than other men. It follows, therefore, that more politicians will be lawyers.

The preceding explanation, however, must be qualified by the fact that occupational compatibility does not necessarily have the same influence in every situation. Not all public officeholders are involved in political activity to the same degree. Thus the need of a particular politician for a compatible non-political occupation is dependent on the extent and character of his political involvement. Officeholder A, for example, has spent fifteen years on

[3] Matthews, *op. cit.*, pp. 30-32, gives a brief summary of the usual explanations of lawyers in politics. See also Matthews, "United States Senators and the Class Structure," *Public Opinion Quarterly*, XVIII (1954), 5-22.

and off in various offices. He is evidently a political careerist. Officeholder B has never held office before. If, on the basis of the compatibility argument, we ask which one is most likely to be the lawyer, the answer is obviously politician A or the political careerist. In other words, the advantage which lawyers have in politics, as a result of the special relation between the two occupations, accrues to them primarily when public office goes to men with extensive political careers.

This conclusion may be tested empirically by examining the careers of the governors of the states. In the period from 1870 to 1950 there were 995 men elected governor in all of the states combined.[4] Of these 456 were practicing lawyers.[5] The legal profession is, therefore, distinctly predominant amongst the governors. How do these lawyer governors differ from their colleagues? Are they clearly the political careerists?

Let us examine first the most distinctly amateur of the governors, those who had never spent any time in public office before obtaining the governorship. This does not necessarily mean that they had little experience in political activity. However, as a group, such governors never had to face the hazards of officeholding. If our thesis is correct, occupational compatibility should influence least the sources from which governors with no office experience have been drawn. Consequently, lawyers should have no special predominance among them. Such, indeed, is the case. (See Table 1, first column.) Among these amateur governors we find that businessmen as a group actually outnumber the lawyers by more than two to one. The representatives of the non-legal professions combined, largely journalists and educators, are found in the same proportion as lawyers. Thus, among the governors who are amateur politicians, it is evident that lawyers enjoy no

[4] This figure includes only governors elected in their own right, excluding those who succeeded from the lieutenant governorship or some other office. No governor is counted more than once. The sources of the information on their careers are varied and include all of the major biographical collections, notably, the *Dictionary of American Biography*, the *National Cyclopaedia of American Biography*, *Biographical Directory of the American Congress, 1774-1949*, *Current Biography*, and *Who's Who in America*.

[5] Governors admitted to the bar or with law degrees who clearly did not practice the law were not considered lawyers for the purposes of the study.

particular advantage, as they should not if their favored position in politics is due largely to occupational compatibility.

Careerism is, after all, a relative concept. The longer time a man has spent in office before becoming governor, the more justified we are in describing him as a political careerist. Such an influence as occupational compatibility should become increasingly effective the longer a man's office career. We can perceive this influence among the governors, for there is a relation between the length of a man's career in politics and the likelihood that he was also a lawyer. (See Table 1.) Among the governors with less than

TABLE 1

Occupations of American Governors (1870-1950) and Political Careerism

Non-political Occupation	Number of years spent in public office before being elected governor, in percentages				
	0	1–4	5–9	10–14	15 and over
Law	20	38	45	58	61
Business	52	40	37	27	23
Farming	8	8	9	7	10
Professions (other than law)	20	14	9	8	6
Total	100	100	100	100	100
Number (Total, 932)*	86	154	287	225	180

* The discrepancy in the totals between this and the succeeding tables is due to the lack of complete information for all of the categories in the cross-tabulations. The actual total number of governors considered was 995. Of these 456 were lawyers.

five years in office previously, businessmen continue to outnumber the lawyers. The lawyers only reach an absolute majority of all governors amongst those with ten or more years of experience. The chances, therefore, are only one in five that a governor with no office experience will be a lawyer. For governors with over fifteen years in office the chances rise to three in five. This direct relation between the length of a man's career leading up to the governorship and his occupation lends weight to the proposition that the lawyer in politics is to be equated with the careerist in politics.

The lawyer governors are political careerists in another sense besides that indicated by their length of service. Their commitment to politics begins at an earlier age and its pursuit is more continuous than is the case for non-lawyer governors. Almost half of the lawyers had already attained some public office before reaching the age of thirty. (See Table 2.) This was true of rela-

TABLE 2

The Timetable of the Political Careers of Lawyer Governors (1870-1950)

	Ages at Starting Political Career					
	Under 30	30–39	40–49	50–59	60/and over	Total
Number of lawyer governors	223	167	39	9	1	439
Per cent of governors in age group who were lawyers	68	48	35	14	8	
	Ages at Achieving the Governorship					
	Under 40	40–49	50–59	60/and over		
Number of lawyer governors	55	198	138	61		452
Per cent of governors in age group who were lawyers	63	56	38	41		

tively few of the non-lawyers. At the same time, lawyers reached the office of governor at an age earlier than men of other occupations, the majority of them even before the age of fifty. As the governors get older the lawyers' proportion decreases, despite the fact that, as we have seen, lawyers have had more prior office experience.

The difference in the timetable of the lawyer and non-lawyer reflects a much greater intensity in the former's commitment to politics. Reaching the governorship before the age of fifty, the lawyer politician has not necessarily reached the peak of his career. Before him is still the possibility of the United States Senate and perhaps even higher office. The lawyer's career thus contrasts with that of the businessman or journalist who reaches the governorship in his fifties or sixties. For the latter a political career is supplementary, to be pursued after a successful career outside of politics.

In the traditional explanation of the lawyer's predominance in politics the argument of occupational compatibility is generally supplemented by the attribution of special political qualities to the lawyer as such.[6] This additional argument is necessary because the mere willingness of a group to accept political office cannot explain why the electorate should comply in this decision. Thus it is pointed out that lawyers enjoy high social prestige. As professional representatives of diverse interests they are accredited with skill in the arbitration of social conflicts. Finally there is assigned to them special talents in debate and verbal exposition. All of these factors help make the members of the legal profession an elite political class.

The assumption that lawyers have better than average political skill, however, is a form of residual explanation which should be resorted to only when their position can be explained in no other way. Lawyers may or may not be better politicians than other men. Officeholding in itself proves only that lawyers are acceptable to the electorate. Is there, then, any other positive advantage that lawyers enjoy, which, together with occupational compatibility, serves to explain their position in American politics?

One distinct advantage lawyers enjoy in the public office structure of the United States is their monopoly of those offices involved in the administration of law through the courts.[7] The fact that most judges and public attorneys have been lawyers certainly does not indicate superior political skills on the part of lawyers. I may have a high or low opinion of the legal profession, but if I wish to sue my neighbor in a court of law I must hire a lawyer. Nothing in this act indicates how I feel about his skill in personal relations or reflects the prestige he has in my eyes. Similarly, the fact that judges and public attorneys are lawyers reflects only the fact that lawyers are specifically trained for these offices, and that this division of labor is accepted within the social system.

The lawyer's monopoly of law enforcement offices[8] is relevant

[6] Matthews, *The Social Background of Political Decision-Makers*, pp. 30-31.

[7] H. D. Lasswell, D. Lerner, and C. E. Rothwell, *The Comparative Study of Elites* (Stanford, 1952), p. 18, mention the lawyer's monopoly as a possible factor explaining his predominance among politicians.

[8] The term "law enforcement office" here and in the subsequent discussion

to our discussion because in American politics there is a great deal of movement from these positions to others of a more general character. It is not unusual for a judge to run for a legislative or executive office. In turn, the law enforcement hierarchy draws its personnel from all of the other branches of government. This easy interchange of personnel, however, leaves the occupational market for politicians in a state of imperfect competition, due to the lawyer's control over a major avenue to public office.

The governorship is a non-law enforcement office for which lawyers, presumably, must compete on equal terms with men of other occupations. The competitive picture, however, is modified by the fact that a high proportion of all of the governors (32 per cent) at some time in their career held a law enforcement office, and many (16 per cent) held one as their last office prior to the governorship. Of all the lawyer governors, approximately a third advanced directly from a law enforcement position. It would appear that for these lawyer governors the law enforcement position rather than their occupation was the significant factor in their advancement to the governorship. The large proportion of lawyer politicians who advanced by means of their office monopoly poses the problem of their importance in a new perspective.

If the lawyer has any extraordinary political aptitude he should be able to maintain his importance without the aid of a law enforcement office. The question, then, is, do the governors who derive from non-law enforcement offices, such as the state legislature or state and local executive positions, show any strong tendency to be lawyers? If the governors are divided according to their last previous office, we find, as we might expect, that most governors coming from law enforcement offices are lawyers. (Table 3.) Among the other groups, however, we find only one in which lawyers are a majority, the former Congressmen.[9] Businessmen rank on a par with lawyers among the former state

refers to all offices related to the administration of the law by the courts. In the experience of governors these positions are mostly those of judge or public attorney. A few governors, however, had been police commissioners or sheriffs.

[9] Why lawyers as so abundant among Congressmen is a problem needing closer study. It is possible that this is due to a greater degree of careerism among congressmen than is the case among state officials.

legislators and minor state officers. And among former administrators and local officers it is the businessman rather than the lawyer who predominates. As we have already observed, among governors with no office experience, lawyers are relegated to a minor position. From this evidence it is clear that a great deal

TABLE 3

The Relation Between the Occupations of the Governors and the Last Public Office Held Before the Governorship, Stated in Percentages

Non-Political Occupation	Last Office Type * Held before the Governorship					
	Law enforcement	Federal Elective	State Legislative	Statewide Elective	Local Elective	Administrative
Lawyers	95	52	39	38	31	29
Businessmen	4	29	37	39	51	42
Farmers	0	9	14	9	4	10
Professionals (other than lawyers)	1	10	10	12	12	15
Unknown	0	0	0	2	2	4
	100	100	100	100	100	100
Total Number	162	112	200	157	74	136

* The office types are composed as follows: law enforcement: all offices related to the administration of law by the courts, judge, public attorney, etc. at all levels of government; federal elective: U. S. Senators and congressmen; statewide elective: all of the generally elected state offices such as lieutenant governor, secretary of state, excluding judges and attorneys general; local elective: mayors, city councillors, and county officials; administrative: all appointive offices at all levels of government, excluding the legal positions.

of the lawyer's status in American politics is directly related to his monopoly of the law enforcement offices.[10]

Further analysis reveals, in fact, that lawyers are becoming increasingly dependent on a law enforcement office as a means of political advancement. Over the eighty years covered by this study, the proportion of lawyer governors who have come from law enforcement offices has steadily increased. (Table 4.) Be-

[10] One might argue that careerism and the control of a law enforcement office are related to each other, i. e., the former is the product of the latter since judicial offices generally are held for longer terms than other offices. Actually the two influences appear to be independent of each other. Both groups of lawyer governors, those who did and those who did not advance from a law enforcement office, exhibit the same characteristics of careerism.

tween 1870 and 1950 the actual number of lawyers remained stable, rising somewhat in the first and last decades of the time span.[11] This stability in numbers, however, obscures the fact that both the proportion of governors with some form of law enforcement experience and of those who held such office just prior to the governorship have increased almost steadily in the same period. The proportion of lawyer governors who at one time had held a law enforcement office rose from 56 to 77 per cent, reaching a high of 85 per cent in the 1930's. The proportion of lawyer

TABLE 4

The Changing Office Careers of Lawyer Governors 1870–1950

Decade	Number of lawyers elected governor	Per cent of lawyer governors with law enforcement experience	Per cent of lawyer governors whose last previous office was law enforcement
1870–79	68	56	22
1880–89	51	61	16
1890–99	55	64	31
1900–09	54	67	37
1910–19	56	73	43
1920–29	54	78	44
1930–39	53	85	51
1940–50	65	77	42

governors coming directly from a law enforcement office went from a low of 16 per cent in the 1880's to a high of 51 per cent in the 1930's.

These long range trends imply that the lawyer's role in American politics has been changing from that of versatile politician to that of legal technician. The nineteenth century lawyer governor appears to have been the political man in the more general sense, precisely because he was able to advance through legislative and administrative offices for which he had to compete equally with men of other occupations. In contrast, the lawyer governor of the mid-twentieth century seems far more dependent upon his technical legal role. What in effect has happened, the evidence suggests, is that the role of the courts and judicial administration

[11] A governor is attributed here only to that decade in which he was first elected governor.

is increasing in importance. Therefore the success of lawyers in becoming governor is more a product of the public attorney's and judge's ability to advance in office than it is of any generalized political skill on the part of the lawyer.

The evidence, it is true, does not rule out the possibility of generalized political skills on the part of lawyers. They continue to form a sizable proportion of the governors who came from all offices, certainly more than their numbers in the population at large would warrant. However, they are far from being the dominant element in American politics, once their monopolistic advantage is removed.

If the lawyer's position has not been the same over time, it is equally important to realize that his role in politics varies considerably among the states. As semi-independent political systems we should expect the states to differ in their office promotion patterns. For this reason the conclusions we have reached with respect to office holding by lawyers in the United States have only more or less validity for each of the forty-eight states. For one thing, the proportion of lawyers among the governors is not uniformly distributed among the states. Secondly, the very bases of the lawyer's position appear to differ from region to region.

If we examine the distribution of lawyers among the governors, we find a sizable number of states in which lawyers enjoyed no particular predominance at all. In twelve states less than 30 per cent of the governors in the period 1870 to 1950 were lawyers. (See Table 5.) In two of these states, Utah and Delaware, no governor was ever a lawyer, an extreme inversion of the general proposition. In general, the proportion of lawyers was distinctly lowest in the Western Mountain states. Of the region's eight states, five, Utah, Wyoming, Nevada, Idaho, and Arizona, were in this category. New England also was an area of low importance for lawyers. There, the only state to have as many lawyer governors as the national average was Massachusetts, with 47 per cent. The remaining states with few lawyer governors form no distinct regional concentration, although it should be pointed out that almost all are from the West and Midwest. It is in the South and border states that lawyers are heavily concentrated. Viewing the states at large we can say that the general proposition that

lawyers are especially abundant among political leaders is false for about one-fourth of the states.

Just as the lawyer's importance in politics varies regionally

TABLE 5

The Distribution of Lawyer Governors Among the States, and the Proportion of Such Governors who Came from Law Enforcement Office

The figure following each state is the percentage of lawyer governors, 1870–1950

	New England	Southern States	Border States	Western Mountain	Other States
States where less than 30 per cent of the governors were lawyers					
	N. H. 19			Utah 0	Del. 0
	Conn. 29			Wyo. 6	Wis. 22
				Nev. 6	Ore. 24
				Ida. 14	Neb. 26
				Ariz. 22	N. D. 26
					Mich. 28
States where 30 per cent or more of the governors were lawyers					
Category I:					
0–25 per cent of lawyer governors came directly from law enforcement office	Vt. 36	Va. 73			Iowa 45
	R. I. 31	Miss. 65			Ind. 57
	Mass. 47	Okla. 42			N. Y. 59
	Me. 30	N. C. 85			Kans. 30
Category II:					
27–42 per cent of lawyer governors came directly from law enforcement office		Ala. 67	Md. 72		Cal. 39
		Fla. 68	Ky. 67		Ill. 79
		Ga. 73	W. Va. 80		N. J. 59
		S. C. 59	Tenn. 81		Wash. 45
		La. 68			Penna. 67
					Minn. 57
Category III:					
50–67 per cent of lawyer governors came directly from law enforcement office			Mo. 55	N. M. 36	S. D. 42
			Ark. 64	Mont. 90	Ohio 50
			Tex. 55	Col. 43	

within the United States, so does his use of the law enforcement office monopoly as a means to political advancement. The range in the proportion of lawyer governors who had held a law enforce-

ment office just prior to the governorship goes from a low of 0 per cent in Iowa to a high of 67 per cent in Texas. In Table 5 the states have been arranged to show precisely this variation in the office experience of lawyer governors. The states where lawyers were of any significance among the governors (i. e., over 30 per cent) are placed in three arbitrary categories according to the proportion of governors coming from law enforcement offices. Category I contains those states where the proportion is low, category III those where the proportion is high. Category II contains the intermediate group for whom the evidence is least conclusive either way.

Using the categories of Table 5 a number of distinct regional groupings is discernible. All of the New England states fall either in the group where lawyers are negligible among the governors or in category I, the states whose governors have been least dependent on law enforcement positions. In New England it is clear that the position which the lawyer enjoys in politics is not the product of his monopoly of law enforcement offices. The Southern states cluster in categories I and II, which suggests that in these states as well the lawyer's dominance is the product of something other than a monopoly of law enforcement offices. The fact that in the South a much higher proportion of governors were lawyers than in New England would indicate that the lawyers in the former states are the true political men in a general sense. The border states, in contrast, group in categories II and III, indicating the greatest support for the assumption that lawyers are dependent on law enforcement offices. In the Western Mountain states, also, lawyers appear to be dependent on their office monopoly for advancement. Although lawyers generally play a small part in the politics of these states, those in which they are significant all fall in category III.

The fact that the states do fall into regional groups when classified according to our categories lends additional significance to the findings. When states which resemble one another in the way they recruit their political leaders also have similar political histories and social and economic structures, we can be more confident that leadership recruitment itself is not simply the product of chance elements. Thus we should expect to find that

the importance of lawyers and the extent to which they are dependent upon their monopoly of law enforcement office are related to the states' political systems.

In Texas, for example, we have noted that lawyer governors have been exceptionally dependent upon law enforcement offices for political advancement. These offices gain an additional advantage in the state's politics from the close identification of all local government with the county courthouse.[12] On closer examination of the state's history we are able to observe how the character of its political conflicts also focussed attention upon the major law enforcement positions. In the late nineteenth and early twentieth centuries a rapidly expanding economy created political demands for regulation of railroad, insurance, and oil interests. These demands placed the attorney general in an especially conspicuous and strategic position for the attainment of political power. The first attorney general to utilize his position in this manner was James S. Hogg, who became governor in 1891 on a platform of railroad regulation. He was succeeded by his own attorney general, C. A. Culberson.[13] Since then the attorney general has normally been a major contestant for promotion to the governorship or the U. S. Senate. In 1926 Dan Moody became governor after having made much capital out of the frauds of the Ferguson regime.[14] Moody had originally been able to rise to the attorney generalship because of his successful prosecution of the Ku Klux Klan. Later, in 1934, attorney general James Allred also became governor. The most recent attorney general to gain major office in Texas has been Senator Price Daniel. Thus a political system in which law enforcement offices are a major avenue of advancement inevitably produces a high proportion of lawyers amongst its leaders.

In Montana politics the lawyer has much the same position as in Texas. From the beginning of its statehood up to 1950 Montana had ten elected governors, nine of whom were lawyers. All of

[12] Caleb P. Patterson *et al.*, *State and Local Government in Texas* (New York, 1948), pp. 453-54.

[13] Rupert N. Richardson, *Texas, the Lone Star State* (New York, 1943), p. 359.

[14] *Ibid.*, p. 430; Hart Stillwell, "Texas," in *Our Sovereign State*, ed. by R. S. Allen (New York, 1949), p. 326.

these lawyer governors at some time held a law enforcement office, and five held such an office directly before the governorship. The state's politics has to a large extent revolved about the courts. As its predominantly mining economy developed, the primary service demanded of government was frequently legal litigation of conflicting economic interests, first of competing owner groups, later of management and labor. And always at issue has been the power of government to take in taxes the wealth gained from natural resources by private capital.[15] It is not difficult to understand, then, the special premium which the judge and public attorney, and thus incidentally lawyers, have enjoyed in Montana's politics.

In conclusion, it is evident that the lawyer's relation to politics is not the product of any single factor. It is true that all of the evidence we have examined deals with a single group of officials, the governors of the states, and any conclusions should be restricted to this group. We have demonstrated, however, that lawyers enjoy two distinct advantages in becoming governor. The first is that of the compatibility of the professions of law and politics. As we have pointed out, this is an advantage which accrues to lawyers primarily when positions of political leadership go to career politicians. The lawyer's second advantage lies in his monopoly of offices related to the administration of law by the courts. When and where these offices lead to the governorship the lawyer also becomes governor. In most of the states one or both of these factors explain the dominant position of the lawyer. However, both the importance of lawyers as such, and the relative impact of their office monopoly are highly variable from state to state. Thus the explanation of the lawyer's position in American politics must always be related to the milieu in which he is able to advance. The fact that these differences are regionally concentrated suggests further that occupational sources of American political leaders are integrally related to the states' political systems.

[15] Joseph K. Howard, *Montana, High, Wide, and Handsome* (New Haven, 1943) is the best general discussion of Montana's history. For descriptions of the legal battles occurring around the turn of the century see C. P. Connelly, *The Devil Learns to Vote, the Story of Montana* (New York, 1938) and C. B. Glasscock, *War of the Copper Kings* (New York, 1935).

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*Freedom and Authority in the Amphibial State**

I. Introduction

> For those who do not fit within the structure of the state there is but one alternative—to obey or die.[1]

It is fifteen years since Harold Lasswell postulated the Garrison State, a hypothetical construct suggestive of the possible working out of political trends then observable in the United States. This was a state in which all organized social activity was governmentalized, and independent associations had disappeared. The judicial and legislative functions had atrophied, and the "specialists on violence" were supreme. In organization and process the Garrison State responded to the conditions of twentieth century total warfare. This had effaced the distinction between home-front and battle-front, had brought about "the socialization of danger," and the need to mobilize all the human energies of the nation in a total effort for survival—permitting to individuals the alternative of obedience or death.

The Garrison State has yet to be realized (Lasswell disclaimed any attempt at prediction). The social scientist cannot with certainty say that we are marching inexorably toward it or that we are on another road to serfdom. It is clear, however, that we live in an age of political transition, and in a state which is

* This is a revised version of a paper presented at the Panel on Civil Liberty, American Political Science Association, Washington, D. C., September, 1956.

[1] Harold Lasswell, "The Garrison State and Specialists on Violence," *American Journal of Sociology*, XLVI (1941), 455-68; reprinted in Lasswell, *Analysis of Political Behavior* (New York, 1949), pp. 146 ff.

different in some essentials from that which we knew fifteen, twenty, or thirty years ago. It is a state which is neither as free as some democrats think democracies should be, nor yet totalitarian in the Garrison State sense. Let us call it amphibial.[2]

The amphibial state is a state besieged. It is characterized not so much by the mobilization of human energies toward attainment of positive social goals as it is by the precautionary exclusion of individuals and groups from various occupations and activities in an effort to prevent breaches of national security. It is a state in which freedom of opportunity, of movement, and of expression increasingly are subjected to restraint based upon the application of political tests. War has facilitated transition to the amphibial state, and its essential features emerge from a description of governmental efforts to suppress disloyalty during the recurrent periods of military emergency in this century. It reflects a basic revision of the objective and mode for administering security controls, and of the tenable assumptions concerning the duration of war emergencies.

II. OBJECTIVE AND MODE OF ADMINISTRATION OF SECURITY CONTROLS

> . . . criminal punishment after the act is, in time of great emergency, an insufficient protection against disclosures and destruction that may take a heavy toll in lives and defense facilities.[3]

On the eve of delivering his April, 1917, war message to Congress, Woodrow Wilson was tormented with thoughts concerning the probable impact of war upon civil liberty in the United States. He confided some of these fears to Frank Cobb of the New York *World*, who had heeded a call to a late evening conference at the White House.

[2] The term "amphibial state" is borrowed from Joseph A. Schumpeter, "Capitalism in the Postwar World," in S. Harris, ed., *Postwar Economic Problems* (New York, 1943), pp. 113-26; reprinted in Schumpeter, *Eassys* (Cambridge, Mass., 1951), pp. 170-83. Schumpeter used the term to depict a political economy beyond capitalism but falling short of a socialist revolution. Barring such a revolution he foresaw that the United States would be "an amphibial state for the calculable future."

[3] Senator Paul Douglas, in debate on Kilgore substitute measure for McCarran Internal Security Bill, September 8, 1950. 81st Cong., 2d Sess., 96 Cong. Rec. 14417.

> Then he began to talk about the consequences to the United States. He had no illusions about the fashion in which we were likely to fight the war.
>
> He said when a war got going it was just war and there weren't two kinds of it. It required illiberalism at home to reinforce the men at the front. We couldn't fight Germany and maintain the ideals of Government that all thinking men shared. He said we would try it but it would be too much for us.
>
> "Once lead this people into war," he said, "and they'll forget there ever was such a thing as tolerance. To fight you must be brutal and ruthless, and the spirit of ruthless brutality will enter into the very fibre of our national life, infecting Congress, the courts, the policeman on the beat, the man in the street."
>
> Conformity would be the only virtue, said the President, and every man who refused to conform would have to pay the penalty.
>
> He thought the Constitution would not survive it; that free speech and the right of assembly would go. He said a nation couldn't put its strength into a war and keep its head level; it had never been done.
>
> "If there is any alternative, for God's sake, let's take it," he exclaimed.[4]

His words were prophetic. Congress shortly enacted legislation (subsequently amended) outlawing speech which causes or attempts to cause obstructions to the war effort, ranging from refusal of duty in the military forces to the discouragement of the sale of government securities.[5] The courts were ruthlessly brutal in enforcing this legislation. Chafee reports some 2,000 prosecutions under the Espionage and Sedition Acts.[6] Judges and juries gave wide scope to the words of the statutes.

> It became criminal to advocate heavier taxation instead of bond issues, to state that conscription was unconstitutional though the Supreme Court had not yet held it valid, to say that the sinking of merchant vessels was legal, to urge that a referendum should have preceded our declaration of war, to say that war was con-

[4] J. L. Heaton, *Cobb of "The World"* (New York, 1924), pp. 269-70.

[5] Espionage Act, June, 1917, 40 Stat. 215; Sedition Act, May, 1918, 40 Stat. 553.

[6] Zechariah Chafee, *Free Speech in the United States* (Cambridge, Mass., 1941), pp. 51 ff. The *Annual Reports of the Attorney General* (*1918*, p. 156; *1919*, p. 120; *1920*, p. 201; *1921*, p. 151) indicate that 2,002 persons were prosecuted under the Acts between 1918 and 1921. Of these 933 were convicted.

trary to the teachings of Christ. Men were punished for criticizing the Red Cross and the Y.M.C.A., while under the Minnesota Espionage Act it was held a crime to discourage women from knitting by the remark, "No soldier ever sees these socks." It was in no way necessary that these expressions of opinion should be addressed to soldiers or men on the point of enlisting or being drafted. Most judges held it enough if the words might conceivably reach such men. They have made it impossible for an opponent of the war to write an article or even a letter in a newspaper of general circulation because it would be read in some training camp where it might cause insubordination or interfere with military success. He could not address a large audience because it was liable to include a few men in uniform, and some judges held him punishable if it contained men between eighteen and forty-five, since they might be called into the army eventually; some emphasized the possible presence of ship-builders and munition makers. . . .

One judge even made it criminal to argue to women against war, by the words, "I am for the people and the government is for the profiteers," because what is said to mothers, sisters, and sweethearts may lessen their enthusiasm for the war, and "our armies in the field and our navies upon the seas can operate and succeed only so far as they are supported and maintained by the folks at home."[7]

Members of the I.W.W. were taken into dragnets and held in custody for months or years prior to trial in batches of twenty-five, one hundred, or one hundred and fifty. Juries returned wholesale verdicts after the briefest contemplation, and bewildered men and women were trooped off to begin serving five, ten, even thirty-five year sentences, wondering from what sources they were to raise the extravagantly levied fines.[8] The convicted received no solace from the Supreme Court.[9]

[7] Chafee, *The Blessings of Liberty* (Philadelphia, 1956), p. 68; *Free Speech in the United States,* pp. 51-2. See also Robert K. Murray, *Red Scare* (Minneapolis, 1955).

[8] It is not possible to secure data from the Department of Justice concerning length of sentences and size of fines. See, however, the following publications of the American Civil Liberties Union: *War-Time Prosecutions and Mob Violence* (New York, 1919), p. 55; *The Truth about the I.W.W. Prisoners* (New York, 1922), p. 47.

[9] See *Schenck v. United States,* 249 U. S. 47 (1919). The Supreme Court did not reverse any of the Espionage Act convictions of this period.

Investigatory authorities and prosecuting officials were aided by a group "of disciplined citizen volunteers, members of the American Protective League, an organization created with the approval of the Attorney General and . . . consisting . . . of approximately 250,000 members scattered throughout the United States. . . ." [10] Not infrequently summary justice was administered by groups of private citizens acting under dubious color of or outside the law.

Direct and harsh retribution was the goal sought and achieved in the enforcement of this restrictive legislation; prevention was secondary and incidental, to be achieved insofar as the record of prosecution and conviction served to deter alleged disloyal activity by others. Since the program was retributive, there was no necessary logical relationship between the intensity and duration of controls exercised over individuals, and the objective need in security terms to immobilize them. Thus persons sentenced during the war for associations and utterances remained in prison well into the 'twenties.[11]

In the Second World War the criminal process was employed with greater moderation. Local federal attorneys were not granted a free hand in seeking indictments for sedition. Suits were "undertaken only with the approval of the Attorney General, in order that a uniform policy may be enforced which will avoid use of the sedition laws to punish merely careless or unpopular utterance." [12] This is in part to be attributed to the fact that the lesson of 1917-1920—the danger of letting the nation see red—had been well learned. It is to be explained also by the fact that the 'thirties and early 'forties witnessed a shift in the objective of security legislation from retribution to prevention, with an accompanying transfer of emphasis from the judicial to the administrative process for enforcement.

Retribution and prevention are not clear-cut dichotomies. They are points on a continuum. Most legislation falls at intermediate

[10] *Annual Report of the Attorney General, 1918*, p. 15.
[11] American Civil Liberties Union, *supra*, Note 8.
[12] *Annual Report of the Attorney General, 1944*, p. 3.

points along the continuum. And while the most purely punitive legislation has an incidental deterring or preventive effect, the most purely preventive entails adverse consequences for individuals which have the impact, if not the purpose, of punishment.

Here lies a key to the distinction. The concepts of fault and punishment are absent from purely preventive legislation, which has the sole forward-looking objective of forestalling socially unacceptable occurrences.[13] In his 1955 Godkin Lectures, John Lord O'Brian heralded the rise of "a new system of preventive law applicable to the field of ideas." He regarded it is "essentially different from traditionally American procedures."[14] In fact, much of the administrative law of this century has been inspired by the perceived need to substitute prior restraint and prevention for the concept of guilt and *post hoc* retribution.[15]

[13] Note the distinction between prevention and punishment drawn by Chief Justice Vinson in the course of sustaining the validity of the Taft-Hartley non-Communist oath: Punishment is "for past actions," whereas preventive law subjects persons to disabilities "only because there is substantial ground for the . . . judgment that their beliefs and loyalties will be transformed into future conduct." *American Communications Association v. Douds*, 339 U. S. 382, 413 (1950).

[14] *National Security and Individual Freedom* (Cambridge, Mass., 1955), p. 22. At this point O'Brian cites the Vinson quotation given in Note 13 above. Mr. O'Brian does not stand alone. The Subcommitee of the Senate Committee on Post Office and Civil Service included within its July, 1956, report on *Administration of the Federal Employees' Program*, pp. 173 ff., a section on "A new body of criminal administrative law." To be sure, the content does not reflect the perceptiveness of the title. Zechariah Chafee in *The Blessings of Liberty*, pp. 81-5, nostalgically contrasts the criminal trials of the First World War to contemporary "proceedings which have no juries, no substantial supervision by judges, and vague definitions of wrongdoing."

[15] The very years in which the Wilson administration relied upon the criminal process for the suppression of disloyalty witnessed the development in the United States of a new emphasis in the law governing economic behavior. The workmen's compensation statutes enacted in ten states by 1910 and in forty-one by 1920 illustrate the trend toward abandoning the allocation of fault as a basis for determining competitive economic rights. They also reflect the contemporary dissatisfaction with the "traditional Anglo-American method of combating activities of an antisocial character" by warning of their consequences, and punishing transgressors. In the Great Society prevention must be the watchword, and prevention depends upon systematized and sustained supervision through the administrative process. In connection with such programs it was found necessary to innovate new techniques for compulsion, such as the "immunity bath," to register, classify, and differentially regulate persons, and to declare privileged and subject to administrative control occupations formerly free of government regulation.

Emphasis upon prevention spells inevitable geometric increase in the incidence and variety of administrative control. The official scrutiny of government is extended from those who have committed proscribed acts to those who have the potential to do so. Not only is the administrative policeman's field of vision radically enlarged, but it is necessary to fashion and administer a myriad of novel deterrents to antisocial action.

Preventive law programs rest upon or embody certain assumptions concerning the predictability of human behavior. In formulating and administering a preventive program, whether in the sphere of economic or political controls, it is necessary, in two different dimensions, to identify "some of the antecedent characteristics which predispose to behavior" or to occurrences which it is the wish of society to avoid.[16] At the most general level of prediction it is necessary—unless the administrative officers are to be granted carte blanche—to delimit in the delegatory statute the general classes of persons to whom the program applies. What is involved here is an *actuarial prediction.*[17] In confining application of the program to specified classes or groups of persons, the legislature is hypothesizing a high positive correlation between the "frequency of occurrence of specified behavioral characteristics" and the designated groups.

The probable future tendency of specific group members to commit the proscribed acts must now be measured, unless the entire group is to be subjected to the same kind and degree of inhibition. In theory this prediction can approach "unequivocal restraint," i. e., it may be an *absolute prediction.* The developing behavioral sciences contribute to solution of the problem of absolute prediction as they provide the administrator of political control programs with guiding models of "ideal [personality] types or coherent behavioral systems" tending toward patterned responses to varying social stimuli.[18]

[16] Harold D. Lasswell and Gabriel Almond, "The Participant-Observer: A Study of Administrative Rules in Action," in Lasswell, *op. cit.*, p. 265.

[17] Adopting the analysis of John A. Clausen, in Samuel A. Stouffer, *et al.*, *The American Soldier:* Vol. IV, *Measurement and Prediction* (Princeton, 1950), pp. 573 ff.

[18] See Samuel A. Stouffer and Jackson Toby, "Role Conflict and Personality,"

The lineage of the present loyalty-security program can be traced to the Hatch Act of 1939, the first federal legislation "to promulgate standards for testing the loyalty of applicants or employees to their Government."[19] And what is it but a program for excluding persons from federal service on the basis of a prediction of the probable future likelihood that they will engage in acts inimical to the internal security of the United States? The Attorney General's list performs the function of actuarial prediction by specifying a high positive correlation between listed groups and subversion, and the hearings boards frame absolute predictions in individual cases. To say that individuals dismissed from government service under this program are not subjected to punitive action, is not to suggest they do not suffer in property and in reputation. But if the program is administered in good faith, the hurt they experience is impersonal and unintended.

Exclusion from prescribed forms of employment is a limitation upon individual freedom—freedom of opportunity. And when it is based upon application of a political test, it certainly vitally affects civil liberty. It is not only the federal service which is affected. Maritime employment and to some extent defense employment generally are similarly restricted.[20]

The Butler Bill of 1955, which probably will be reintroduced and passed in the 85th Congress, would set up for defense facilities (factories, transport, etc.) a program similar to that for federal employees.[21] The Internal Security Act of 1950 blends adminis-

American Journal of Sociology, LVIII (1951), 395-406; J. Dollard, "Under What Conditions Do Opinions Predict Behavior?" *Public Opinion Quarterly*, XII (1948), 623-36; Ernest Jones, "The Psychology of Quislingism," *International Journal of Psycho-Analysis*, XXII (1941), 1-6; Bingham Dai, "Divided Loyalty in War," *Psychiatry*, VII (1944), 527-40.

[19] U. S. Senate, Subcommittee of the Committe on Post Office and Civil Service, *Administration of the Federal Employees' Security Program*, p. 17 (84th Cong., 2d Sess., Sen. Rept. No. 2750, 1956). The chronology of development of the loyalty security program is given in this report, among many other studies of the program and will not be repeated here. Latest among these studies is The Association of the Bar of the City of New York, *The Federal Loyalty-Security Program* (New York, 1956).

[20] 64 Stat. 427 (1950).

[21] See *Parker v. Lester*, 227 Fed. 708 (1955); Sen. Rept. No. 2750, *supra*, Note 19, pp. 358 ff.; and Industrial Relations Research Association and American Political

trative and criminal law techniques toward the preventive goals of barring members of "Communist-action" groups from federal or defense employment, and compelling members of "Communist-front" groups to reveal such membership in seeking employment with the federal government or with defense plants. In the first instance the Congress has framed both actuarial and absolute predictions, the latter extending to each member of the group, and in the second instance it has framed the actuarial prediction and sought to insure that employing officials would be alerted to the need to frame absolute predictions.[22]

Let us continue to develop the theme of exclusion—for preventive law seeks to immobilize or inhibit individuals in the manner and to the extent necessary to avoid the meeting of subjective predisposition and objective opportunity to be the agent of proscribed acts. The Neutrality Acts of the 'thirties gave the President power to exclude American citizens from travel on belligerent ships or to belligerent areas, as a precaution against provocative international incidents.[23] Section 6 of the Internal Security Act of 1950 makes it illegal for members of registered "Communist organizations" to apply for a passport or the renewal of a passport, or to use or attempt to use a passport.[24] It is also an offense for

Science Association, *Personnel Security Programs in U. S. Industry* (Proceedings of a Conference held in Washington, D. C., June 3, 1955).

[22] Sec. 5(a)(1), 64 Stat. 987, 992.

[23] 49 Stat. 1081, Sec. 6, at 1084 (1935). This enabled the President to prohibit or regulate traveling by American citizens as passengers on the vessels of any belligerents in a war in which the United States was a neutral. His prohibition could be violated by Americans at their own risk. The penalty attached to violating the President's prohibition was that persons so doing traveled at their own risk. Two months after passage of the Neutrality Act, in October, 1935, President Roosevelt issued Proclamation No. 2142, applying Section 6 to the Ethiopian conflict, and ordering Americans to refrain from traveling as passengers on the vessels of either belligerent. The May, 1937, amendments to the Neutrality Act stiffened Section 6 by making it unlawful for any United States citizen to travel on belligerent vessels in contravention of the President's prohibition. 50 Stat. 121, Sec. 9 (1937). In 1939 the provision was broadened to include any American traveling on (rather than traveling as a passenger on) such a vessel, and to prohibit American ships from carrying goods or passengers to belligerent ports or combat areas. 54 Stat. 4, Sec. 2(a), 5(a). Not only were Americans excluded from combat areas defined by the President, but numerous military security areas were defined, and the entry and behavior of persons in these areas closely regulated.

[24] Sec. 6, 64 Stat. 987, 993.

a federal officer knowingly to issue a passport to such a person. The Immigration and Nationality Act provides the latest confirmation of the power of the President, in time of war or national emergency to impose "restrictions and prohibitions . . . upon the departure of persons from . . . the United States." [25] Recent court decisions have revealed the latitude of discretion asserted by the State Department to refuse passports to individuals on the basis of an assessment of their beliefs and associations.[26] Thus, not because they have committed crimes, but entirely because it is anticipated they would act inimically to American security were they to go abroad, such persons are excluded from almost the whole of the world other than the U. S. In effect, they are penned within the U. S.

The Japanese exclusion program of the Second World War was similar in effect. It merely enlarged the area of exclusion to embrace any area other than the relocation camps to which the Japanese nationals and Americans of Japanese extraction were assigned.[27] In short, there is a point at which exclusion, from opportunity, from movement, becomes so restrictive as to amount to being caged. And we have forthrightly allowed for this, contingent upon circumstances of need. The Emergency Detention Act of 1950, by now familiar to all, provides actuarial predictions to be applied by administrative officials in determining the need, in individual cases, to remove citizens to detention camps.[28] The Attorney General may reduce the control to house arrest or something intermediate between that and detention, as he sees fit.[29] This, of course, is preventive control, entirely lacking in punitive purpose. It ends with the end of the emergency giving

[25] 66 Stat. 163 (1952).

[26] *Bauer v. Acheson*, 106 F. Supp. 445 (1952); *Nathan v. Dulles*, 129 F. Supp. 951 (1955); *Dulles v. Nathan*, 225 F. 2d 29 (1955); *Schachtman v. Dulles*, 225 F. 2d 938 (1955). See Robert E. Cushman, *Civil Liberties in the United States* (Ithaca, N. Y., 1956), pp. 113 ff.

[27] Executive Order 9066, 7 *Code of Federal Regulations 1944*, 1407 (February 19, 1942); 56 Stat. 173 (1942); Executive Order 9102, 3 *Code of Federal Regulations 1944*, 1123 (March 18, 1942). See Morton Grodzins, *Americans Betrayed* (Chicago, 1949).

[28] 64 Stat. 1019 (1950).

[29] *Id.*, Sec 104(e), at 1023.

rise to it. Thus the duration of the control exactly matches the duration of need, just as the duration of ineligibility for federal employment under the loyalty-security program exactly matches the period of justifying need. Both are of indefinite duration.

Publicity, as it intimidates the individual subjected to it, or forewarns those who are the object of his persuasive effort, has an immobilizing effect. It is a traditional and tried tool of preventive law. In the name of protecting national security, we have for nearly two decades required registration of "agents" of foreign countries.[30] A list of such persons is available to the public. The Subversive Activities Control Board functions as much to focus public attention upon subversive groups as to identify them for the purpose of applying legal restraints to them.[31] Once identified as subversive groups they must, like the foreign agent, identify on the envelope or wrapper, the source ("a Communist organization") of any literature they disseminate through the mail, and they must similarly label television and radio broadcasts.[32] Their printing equipment is subject to registration with the Attorney General.[33]

The foregoing is not an exhaustive catalog of instances or types of preventive legislation. From one administration to the next and from Congress to successive Congress, the process of identifying new categories of subversive groups and new disabilities to be applied to the end of avoiding damage to our national security continues. The scope of security-affected activity steadily expands, the public realm continues to assimilate that of the private.[34]

[30] Foreign Agents Registration Act of 1938, 52 Stat. 631 (1938); as amended 18 U.S.C. Sec. 2386. As amended the Act applies also to organizations "subject to foreign control."

[31] Internal Security Act of 1950, 64 Stat. 987 (1950), as amended by Communist Control Act of 1954, 68 Stat. 775 (1954).

[32] 64 Stat. 987, Sec. 10, at 996.

[33] 68 Stat. 586 (1954).

[34] Particularly, one might say, is this true in advance of off-year elections. Note that the Internal Security Act creating the generic classification "Communist organization" and the subgroups "Communist-action" and "Communist-front" organizations was passed shortly before the 1950 Congresssional elections. Before going home to campaign in 1954, the Congress enacted the Communist Control Act, 68 Stat. 775, creating the additional subgroup "Communist-infiltrated" organizations; and it also enacted the Compulsory Testimony Act, applying to

And we no longer have available to us the comforting illusion that the issuance of a proclamation of peace, or the signing of a treaty will reverse the process and a few years of normalcy efface memory of it.

III. DURATION OF EMERGENCY

> When the war is won, the powers under which I act automatically revert to the people—to whom they belong.[35]

Until recently it has been tenable to regard war as a temporary aberrance in the course of political affairs. Thus excessive curbs upon civil liberty were automatically corrected by the termination of the war, and could lightly be condoned.[36] The necessity for carefully balancing control programs, and their application in individual cases, against the current military necessity for them was not dramatically apparent. And their legitimacy, i. e., the adequacy of the procedures by which they were promulgated and applied, could safely, or even desirably, remain unchallenged for the nonce.

Thus during the First World War no careful effort was made to avoid occasional excess; the government was not fastidious in its regard for civil liberty. There is no need to apply the hand brake when the vehicle is so governed as to come to an automatic stop before reaching the danger point. Because of the assured temporary nature of the sacrifices which Wilson made for the goal of victory in war, he could, as Richard Hofstadter has sug-

the investigation of subversive activities by federal grand juries or Congressional committees, the "immunity bath" technique long available to economic regulatory agencies. 68 Stat. 745.

[35] President Franklin D. Roosevelt, Message of September 7, 1942. Quoted in Edward S. Corwin, *Total War and the Constitution* (New York, 1947), p. 63.

[36] Note Professor Robert E. Cushman's comment in his wartime presidential address to the American Political Science Association: "In time of war we can deal effectively with any threats to the security of the nation, or the military success of our arms, which may arise. We do not need to rationalize the restrictions upon speech, press, and assembly which war makes necessary, beyond agreeing with Lincoln that it is better to sacrifice a limb than a life. In fact, the less we try to rationalize wartime restrictions on civil liberty, except in terms of brutal military necessity, the more secure our civil liberties will be after the war is over." *American Political Science Review*, XXXVIII (1944), 1, 13.

gested, "justify himself" and vindicate his administration through achieving "the final victory of the forces of democracy."[37] The war cost thousands of human lives abroad and authored repressive measures at home which were smothering not merely diverse thought, but the lives and freedom of persons. Victory would both vindicate and end the sacrifice.

A five-year period of defense and a war have been succeeded by a state of siege which promises to exceed a generation in duration.

This compels us to reassess a vital element in the traditional theory of democratic response to emergency, which is based on the premise that war emergencies are of short duration.

Legitimacy is a relative term. As Justice Jackson instructed us in the *Steel Seizure Cases*,[38] Presidential action is most legitimate when it is taken under Congressional authority, and most clearly illegitimate when it violates Congressional statute. Between lies the penumbra area of the constitutional power of the President—that to which President Truman referred as "inherent" power.

Lincoln did all three, thus exercising a truly Lockean prerogative to act under the law, in the absence of the law, or contrary to the law in time of emergency.[39] Wilson relied almost exclusively upon legislative delegations. In contrasting the war records of Wilson and Lincoln, W. A. Dunning concludes that civil liberty was restricted to about the same degree in the two Administrations. But unlike Lincoln's marked preference for action under the Commander-in-Chief clause, the First World War President depended almost exclusively upon statutory delegations of authority.[40]

President Roosevelt, it would appear, found it occasionally necessary to resort to all three approaches, securing new legislation as required, "fruitfully misinterpreting" existing legislation as necessary to accomplish his purpose, and threatening on one occasion that "in the event that the Congress should fail to act,

[37] *The American Political Tradition* (New York, 1955), p. 272.

[38] *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 634-38 (1932).

[39] Locke, *Of Civil Government* (London, 1924), Bk. II, Chap. XIV.

[40] W. A. Dunning, "Disloyalty in Two Wars," *American Historical Review*, XXIV (1919), 625-30.

and act adequately, I shall accept the responsibility, and I will act." [41] Justice Jackson, in dissenting from the majority opinion of the Supreme Court upholding an executive-devised program for which President Roosevelt secured enforcing legislation only as an afterthought, phrased what we take to be the classic American response to the problem of the legitimacy of repressive legislation in time of military danger:

> Much is said of the danger to liberty from the Army program for deporting and detaining these citizens of Japanese extraction. But a judicial construction of the due process clause that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself. A military order, however unconstitutional, is not apt to last longer than the military emergency. . . . But once a judicial opinion rationalizing such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle . . . [which] then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need.[42]

Any argument for condoning illegitimate governmental action responsive to emergency conditions is plausible only insofar as emergencies are of limited duration. Any tendency upon the courts to avoid jurisdiction in such cases or so narrowly to construe them as to accomplish the same purpose is condonable only insofar as emergency is of limited duration. Any disposition upon the part of the executive to exercise the kind of prerogative asserted by Lincoln, by Roosevelt, and by Truman (in the seizure of the steel mills) can safely be permitted only if the powers thus exercised can soon "revert to the people."

In brief, it is suicidal for democrats longer to regard such occasional action by government as evidence of the extent to which democratic nations can safely afford to do dangerous things, or as harmless heel-kicking by conscientiously democratic executives. For precedent accumulates inexorably, and in time or prolonged

[41] Corwin, *op. cit.*; see also his *The President: Office and Powers* (3d ed., New York, 1948) and Eliot Janeway, *Struggle for Survival* (New Haven, 1950).

[42] *Korematsu v. United States,* 323 U. S. 214, 246-47 (1944).

emergency, temporary license can easily become permanent lawlessness.

IV. CONCLUSION

> . . . amphibial states conserve many human values that would perish in others.[43]

We have referred to the United States of today as an amphibial state, characterized by the ascendency of the principle of preventive law. Preventive law applied to the objectives of national security involves application of restraints based upon judgments which take into account political association, expression, and conduct. The Supreme Court has clearly approved the principle of prior restraint dissociated from any concept of fault,[44] and has sanctioned, also, the application of political tests as a basis for applying disabilities to groups.[45] There is little cause to believe that it will invalidate any existing Congressional legislation embodying the principle of preventive law. It is here to stay. And like most such principles, it will probably "expand itself in practice 'to the limits of its logic.'"[46]

This does not mean that final degeneration of democratic institutions has set in. It would be premature to herald the Garrison State.

It remains possible to employ democratic institutions to influence the course of political development. But it is doubtful that we can radically check or redirect a process of governmentalization of human activity which is driven by pressures of the magnitude of those which play upon the United States today. Evidence of the pervasive and single-purposed nature of Communist infiltration of the Western democracies, and acquaintance with the destructive power of hydrogen weapons spur us to almost irrational efforts to protect the national security.

If it is impossible abruptly to halt existing trends, it becomes

[43] Schumpeter, *op. cit.*

[44] *Hirabayashi v. United States*, 320 U. S. 81 (1943); *Korematsu v. United States*, 323 U. S. 214 (1944); *American Communications Association v. Douds*, 339 U. S. 382 (1950).

[45] *American Communications Association v. Douds*, 339 U. S. 382 (1950).

[46] Jackson, J., dissenting in *Shapiro v. United States*, 335 U. S. 1, 70 (1948).

necessary for the conscientious democrat to determine whether to blind himself to such programs—"Let's apply political tests as a basis for prior restraint, but pretend that we don't"—to expend energy in impotent opposition to them, or to accept them and seek to operate within their context to conserve and expand democratic values to the maximum possible extent.

The first alternative sanctions illegitimacy, so long as it remains quiet and insidious. In screening the nature and purposes of such programs it invites administrative irresponsibility. Those who opt for the second choice reject the pragmatic definition of legitimacy accepted in this paper and associate the concept with some absolute standard which they can apply to test governmental programs. Their action has the practical consequence of stigmatizing as illegitimate programs adopted and administered in accordance with the forms of constitutional usage (it is their purpose and substance which are challenged), and which are likely to be permanent in nature. This does not strengthen constitutional morality.

The exponents of the third approach expose themselves to the nagging fear that in seeking to preserve the principle of legitimacy and the procedures of democracy within the framework of the amphibial state they are unintentionally lending strength to authoritarian forces.

They might well reflect that it is the continuing and inescapable problem of democratic government to strike a balance between individual freedom and social authority, between the right of the individual, relatively unrestricted by government, to define and pursue his own purposes and goals, and the right of society to stipulate and enforce superior social goals. So viewed, the task we confront in the age of preventive law and the amphibial state is generically identical to that which traditionally has been performed in democratic societies. Available to those who wish to participate in the process of striking a balance between freedom and authority, and insuring good faith and procedural regularity in the enforcement of security programs, are the courts, the vast array of private groups in American society, the press, and perhaps more important than all these, the Congress, acting in its capacity as author of such programs and agency for enforcing their responsible administration.

The courts—or the Supreme Court, at any rate—will be disinclined to take upon themselves the function of predicting the probable future behavioral patterns of individuals. They will not go to the merits of administrative decisions under preventive law programs. But it has rightly been said that freedom is to be discovered in the interstices of procedure, and the judiciary can be depended upon to review freely the adequacy of agency procedure in administering preventive security programs. In doing so they will apply legislative standards and the constitutional standard of due process. The interest of Congress in procedural refinement and the bent of the Court for confining itself to statutory questions will probably keep the due process clause in the background as a "brooding omnipresence." Some recent cases indicate the effectiveness with which the Supreme Court can play this limited but important role.

Peters v. *Hobby* and *Cole* v. *Young* illustrate the application of legislative standards to test the adequacy of administrative procedure in loyalty-security cases. In the *Peters* case the Supreme Court invalidated an adverse security decision of the appellate Loyalty Review Board on grounds it exercised jurisdiction in violation of Executive Order 9835, by which President Truman set up a loyalty review program in 1947. The order gave the central Loyalty Review Board jurisdiction to hear on appeal only those cases in which the agency hearing board had found against an employee, and in such cases it *recommended* final action to the agency. Peters had been found to be loyal by the agency board and the Loyalty Review Board had initiated review improperly. Also, the central Board had "ordered" dismissal, instead of recommending it.[47] In the *Cole* case, the Supreme Court confined itself to a finding that the Congress in Public Law 733 of 1950 authorized dismissal only after evaluation of the character of

[47] *Peters v. Hobby*, 349 U. S. 331 (1955). This case particularly illustrates the lengths to which the Supreme Court is prepared to go to avoid constitutional review of security programs. Counsel for Peters and the government had not raised the issue of Loyalty-Review Board "post-audit." "Peters' lawyer told the court that he 'would not like to win the case' on that ground. 'The question,' remarked Justice Frankfurter, 'is not whether you want to win the case on that ground or not. This court reaches constitutional issues last, not first.'"—Arthur Krock, *New York Times*, April 24, 1955, p. 22.

the employee, *and* the sensitivity of the position occupied by him. Executive Order 10450 treated an adverse judgment of the employee's character as in and of itself adequate basis for dismissal, and the Department of Health, Education, and Welfare dismissed Cole upon such a finding.[48]

Executive Order 9835 of 1947 assigned to the Attorney General the function, after "appropriate . . . determination" of composing a list of subversive organizations for guidance of security officers. He refused organizations so listed opportunity for hearing, and in doing so, said the Supreme Court, in *Joint Anti-Fascist Refugee Committee* v. *McGrath* in 1951, gave his action the character of "an arbitrary fiat."[49] An "appropriate . . . determination," as required by the order, "must be the result of a process of reasoning."[50] It is difficult to state with assurance the basis for the Court's decision in *Communist Party of the United States* v. *Subversive Activities Control Board*, in April, 1956.[51] No constitutional issue was determined. The Party alleged the S.A.C.B.'s finding that it was a Communist-action organization was based on the perjury of three witnesses. The Board merely responded that regardless of the merits of the perjury charge, the testimony of other witnesses was adequate to sustain its findings. The Court concluded that the judiciary could not perform the reviewing function assigned to them if they were to accept records in which administrative findings rested in some degree upon clouded testimony.

In *Ex parte Endo*,[52] decided on the same day on which the Court upheld the Japanese relocation program in 1944, the War Relocation Authority was admonished that it must release an American girl of Japanese extraction whose loyalty the detaining authorities conceded. The government's action must be consistent with its finding. In conceding the loyalty of an individual swept

[48] *Cole v. Young*, 351 U. S. 536 (1956). The *Cole* case also teaches that insofar as a Supreme Court interpretation of a statute tends to restrict the scope of the preventive program that decision will generate immediate and strong Congressional pressure for legislative restoration of the *status quo ante*.

[49] 341 U. S. 123, at 136 (1951).

[50] *Id.*

[51] 351 U. S. 115 (1956).

[52] 323 U. S. 283 (1944).

up in a mass detention program it surrendered the authority to detain her.

Democracy is associated with the proliferation of private interest groups whose object of existence is the protection of group values from private or governmental encroachment. Lasswell, in *National Security and Individual Freedom*,[53] recognizes the ultimate dependence of democratic processes upon public opinion and private group activity for preservation through a protracted military emergency. The press is one such group, and its outstanding members have not within the past few years evinced any reluctance to appraise critically the workings of security programs, where information concerning their administration was available. And it is notoriously difficult to suppress information in the American governmental system.

We cannot be light-heartedly optimistic concerning the functioning of Congress as a conservator of freedom in the amphibial state; for the very body which must be the ultimate hope of curbing excesses has amassed a record of flagrant abuse of authority in pursuing internal security inquiries, and representatives of both major parties have engaged in naked efforts to exploit the real and existing security danger to their electoral advantage.

Yet the record is not so one-sided as might at first appear.[54] Much dissatisfaction which should be directed to the need for an intricate and expanding program of national security legislation has been aimed at the legislature which, if disjointedly and unwisely at times, has attempted to respond adequately to the need. The egregious inquisitorial performances of a few members of Congress tend to blind us to the real accomplishments of others in casting light upon the nature of the national security problem, assessing alternative responses to it, and encouraging responsible administration of security programs. The investigating power was ably employed by Congress toward the end of insuring responsible administration of Second World War programs, and we have been given recent evidence of its suitability for the control of con-

[53] New York, 1950.

[54] The fact of popular awareness of the failures of Congress in this area is indication of the continued effectiveness of the mass communications media in focusing popular attention upon alleged abuse of governmental power.

temporary security programs.[55] The joint "watch-dog" committee, which comes increasingly in vogue, could be employed advantageously to scrutinize, on a continuing basis, programs which are replete with novelty and danger. Other devices, such as the concurrent resolution used to secure to the Congress a veto power over administrative action, exist in abundance and need only be utilized.

The question which remains moot is not whether the facilities exist to conserve human values within the amphibial state, but whether individuals and groups will attempt astutely and resolutely to employ the American political process to pursue this objective.

[55] Roland Young, *Congressional Politics in the Second World War* (New York, 1956).

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Japanese-Korean Relations: A Dilemma in the Anti-Communist World

THAT JAPAN and Korea continue to entertain hostile attitudes toward each other is not surprising in view of their joint, though dissimilar, experiences from 1905 to 1945. Nevertheless, the unsettled conditions in that part of the anti-Communist bloc pose a dilemma. Can these two nations, neighbors of the Communist colossi, afford the luxury of conflicting national interests? The answer is clear to Americans: Communism is the overriding evil. But to the Japanese and Koreans, Communist ambition is but one consideration among several that impinge urgently on their relations.

After forty years of enforced exile President Rhee saw a dream come true—his nation (below the 38th Parallel) was finally free from foreign domination. But how long could the Republic maintain its precarious position between two foes—one ancient (Japan), the other modern (USSR)? He could not forget Japanese aggression, although he did offer in Tokyo in 1950 "to forgive and forget the past and start anew if the Japanese would show the same spirit of cooperation."[1]

The Japanese, for their part, might well have raised the same question as to Rhee's intentions. No matter how affable the officials of each nation appeared outwardly, the embedded attitudes of superiority and inferiority were bound to cloud the atmosphere. The situation called for a common meeting ground, yet even the

* The writer wishes to thank Professor Edward Buehrig of Indiana University for reading and criticizing the manuscript.

[1] Rhee referred to this offer in a letter to the Reverend Toychiko Kagawa, a copy of which was furnished by the Korean Pacific Press. The letter, which was sent at Christmas, 1955, was an answer to one from Kagawa in which he apologized for the forty year occupation of Korea.

cold war did not furnish this. There would seem to be common ground in the close proximity of Japan and Korea to the Moscow-Peking Axis. Militarily speaking, both nations are weak—the one reduced to impotence by forty years of foreign domination, the other by defeat. Neither can stand alone; both find comfort in the strength of the West. However, the threat posed by international Communism has not forced a harmonious relationship. Each nation, in its own eyes, is as much threatened by the other as by Communism.[2]

I. FAILURE AT THE CONFERENCE TABLE

Though unable to find a common point of departure, Korea and Japan cannot remain aloof from each other. Many problems—some arising from the long occupation, others postwar—make it impossible for either to ignore the other.

Not having been a belligerent, Korea was not a participant in the San Francisco Peace Conference, September 1951, and separate talks were necessary to consider the many issues between herself and Japan. For this purpose preliminary discussions were held in Tokyo, October-November 1951.[3] When this initial conference was recessed on November 28 there was agreement to discuss at a later date (1) the legal status of Koreans in Japan; (2) the question of ownership of Japanese vessels in Korean waters at the end of the war; (3) Japanese claims to compensation for properties formerly held in Korea; (4) fishery questions; and (5) diplomatic relations.[4]

One might assume that this agenda embraced every conceivable topic, but it was soon apparent that a new one would be added. Shortly before the first full-scale negotiations in February 1952, the Korean president created the "Rhee Line." Based on the continental shelf doctrine, the imaginary line brought under

[2] Rhee warned the United States that an alliance of Japan, Korea and Formosa was out of the question, since "in a choice between Japanese hegemony or the threat of Communism, the peoples of Asia see little difference." See "The Korean Dilemma: Between Russia and Japan," *Korean Survey*, V (December, 1954), 5.

[3] *Nippon Times*, October 21 and November 29, 1951.

[4] Office of Public Information, Republic of Korea, *Korea and Japan* (Seoul, 1955), p. 15.

Korean sovereignty rich fishing grounds which lay sixty to seventy miles off the coast. How extreme the results of this proclamation would be for Japan's fishing industry was not at first apparent, but Rhee's action hovered in the background as a potential difficulty.

For the moment the negotiators concentrated on the original agenda, the discussions dragging on for two months. At the end of that time solutions were no closer than at the beginning. Japan's demand for compensation for formerly held private properties in Korea forced the breakdown.[5] Japanese properties below the 38th Parallel had been taken over by the American Military Government,[6] and in 1948 these were surrendered to the newly established Korean government.[7] The Korean delegation at Tokyo announced that it would not agree to a treaty until Japan had withdrawn her claims, and when the Japanese refused to set them aside, Seoul called a halt to the discussions.[8] The Koreans relied on more than mere moral argument. In signing the Peace Treaty at San Francisco, Premier Yoshida had accepted Article 4, which recognized the freedom of the victors to dispose of Japanese properties.[9] Now the Japanese government announced that it acquiesced in the measures taken by the American authorities, but this did not prevent Japan's request for compensation.[10]

The property question was one obstacle encountered in the negotiations; another was the problem of Koreans in Japan. The Korean delegation insisted that those of their countrymen who had been in Japan prior to August 9, 1945 be accorded rights as

[5] Embassy of Japan, *Japan Information*, No. 5 (October 5, 1954); also Matsumoto's letter to Yang You Chan, dated April 9, 1952, *Nippon Times*, April 20, 1952. For the Korean viewpoint see Hong Kee Karl, "Questions at Issue Between Korea and Japan," *Korean Survey*, IV (May, 1955), 5. Dr. Karl is director of the Korean Public Information Office.

[6] USAMGIK Ordinance No. 33, December 6, 1945.

[7] Initial ROK-US Agreement on Property and Finance, September 30, 1948.

[8] *Nippon Times*, April 19, 1952.

[9] In his letter to Kagawa, Rhee claimed that "the Japanese representatives presented a preposterous claim to what amounts to 85 per cent of all Korean property as belonging to Japan. By solemn oath, Japan signed the San Francisco Peace Treaty which fully settled all these questions, but almost before the ink was dry . . . Japan was ignoring the terms . . ."

[10] *Nippon Times*, April 14, 1952.

Korean citizens with most favored nation treatment.[11] The Yoshida government looked upon many of the Korean residents as social malcontents who stirred up trouble in the Korean communities.[12] To cope with the situation 125 so-called undesirables were rounded up and shipped to South Korea in May 1952. However, the Rhee government refused to accept them, arguing that they had legal status in Japan and were not subject to forced repatriation.[13] Faced with the continuing problem, the Japanese government adopted the more drastic policy of the detention camp. Facilities were established at Omura to house 250 Koreans who were awaiting deportation on charges of violating the Japanese Immigration Control Ordinance and the Alien Registration Law.[14]

Unfriendly attitudes continued after the breakdown of the first round of negotiations. Then in January 1953 President Rhee met with Yoshida in Tokyo. The two heads of government agreed "on the necessity of solving the pending problems and establishing relations of neighborly friendship between Japan and the Republic of Korea."[15] Foreign Minister Katsuo Okazaki informed the Diet that the way was now paved to resume negotiations at the earliest possible opportunity. He prophesied that the "pending problems [would] be solved in a spirit of give and take, thereby bringing about close relations" so that Japan could further her "cooperation with the United Nations' effort in Korea."[16]

Despite this optimistic note several more months passed before the Korean government, still hoping that Japan would withdraw her claims for compensation, announced its willingness to try again.[17] The Koreans soon discovered that their pre-conference hopes were unfounded, for Japan refused to abandon the demand for compensation. On July 23, after three fruitless months, the conference adjourned *sine die* at the request of Japan.[18]

[11] *Korea and Japan*, p. 16.

[12] One Japanese official claims that 80 per cent of the resident Koreans are under Communist influence.–Kinya Niiseki, "The Postwar Activities of the Japan Communist Party," *Japan's Problems* (Tokyo: Ministry of Foreign Affairs, 1954), p. 73.

[13] ROK Foreign Office protest, *Nippon Times*, May 17, 1952.

[14] The Immigration Control Bureau planned to increase facilities to accommodate 3,000. *Nippon Times*, August 24, 1952.

[15] Speech at the reopening of the Fifteenth Diet, January 30, 1953.

[16] *Idem.*

[17] *Nippon Times*, April 8, 1953.

[18] *Ibid.*, July 24, 1953; and *Korea and Japan*, p. 17.

By September 1953 the effects of the Rhee Line [19] were apparent to Japanese fishermen, and the fisheries problem superseded the property question as the most serious. The situation was so grave that Tokyo requested further discussions, promising to give full consideration to the issue of conservation of marine resources if the Koreans would agree to new talks. The Japanese Foreign Office reported that a satisfactory conclusion to this one aspect of the many-sided situation might clear the way for the solution of other problems.[20]

A third round, which opened on October 6, 1953, was similar to the other two, except that disagreement disrupted the meeting much earlier. The Koreans stated that they could rightly claim compensation for losses suffered during the years under Japanese rule, but that they did not intend to do so, hoping still that Japan would waive her property claims. This threat was met by Kanichiro Kubota, Japanese delegate on the Property Claims Committee. He remarked that Korea's recovery of independence before the Peace Treaty had entered into force was exceptional, and offered the opinion that Japanese rule had not been so bad, that, in fact, it had been beneficial to the Koreans.[21]

The remarks were "so fantastically insulting" that the Koreans demanded an immediate retraction.[22] But after a week of futile exchanges, it was evident that the Japanese government still held that Korea became independent only on April 28, 1952.[23] On October 23 the Korean Mission charged Japan with insincerity and demanded that the Japanese admit that "Mr. Kubota's remarks were wrong."[24] No such admission was forthcoming. Foreign

[19] In June 1952 Korean Foreign Minister Pyun referred to the "Peace Line." Thereafter, Koreans spoke of the Peace Line, while Japanese preferred the "Rhee Line."

[20] The Japanese were so concerned over the fisheries question that they even suggested the inclusion of representatives from fishery circles at the conference. See the Foreign Office announcement in *Nippon Times*, September 25, 1953.

[21] Korean transcript of Property Claims Committee meeting, October 15, in *Korean Survey*, III (December, 1953), 13. Kubota had but to refer to the new nations of 1918, Finland,the Baltic states, and Czechoslovakia for a precedent.

[22] *Korea and Japan*, p. 19.

[23] The day the Japanese Peace Treaty entered into force.

[24] *Korea and Japan*, p. 19.

Minister Okazaki told the Diet that the talks "had to be discontinued on October 21 owing to the high-handed attitude of the Korean side." [25] Nevertheless, Yoshida ordered the Japanese delegation to do everything possible to save the conference; and the Koreans did not hasten to depart. Both sides indicated a desire to continue negotiations.[26] Unfortunately the atmosphere could not be cleared by mere words—unless the right words were used: a retraction of the Kubota remarks.

II. CONFLICT ALONG THE PEACE LINE

As if the problems growing out of the prewar period were not enough, a new and even more acute situation rapidly came to the fore as the result of the Rhee "Peace Line." The Rhee proclamation claimed for Korean sovereignty the shelf adjacent to the peninsular and insular coasts of Korea. Rhee alleged support of "well-established international precedents," and cited the "impelling needs of safeguarding Korea's national interests." [27] Specifically the proclamation stated that the Korean government held and exercised

> national sovereignty over the shelf adjacent to peninsular and insular coasts of the national territory, no matter how deep it may be, protecting, preserving and utilizing to the best advantage of the national interests, all natural resources, mineral and marine, that exist over said shelf, on it and beneath it, known or which may be discovered in the future.[28]

The Japanese government considered this a distortion of President Truman's continental shelf doctrine, and claimed that it violated the concept of contiguous zone, properly envisaged, by extending sovereignty sixty to seventy nautical miles from the

[25] Okazaki's speech at the Opening of the Extraordinary Session of the Diet, October 29, 1953, Press Release No. 27, Embassy of Japan, November 6, 1953. .

[26] Okazaki spoke of the efforts "to save the situation." He stated that official pronouncements from Seoul revealed Rhee's hope for a prompt adjustment of relations. See his speech at the 18th Extraordinary Session of the Diet, December 1, 1953, Current Topic No. 1, Embassy of Japan, December 1, 1953.

[27] Rhee's letter to Kagawa.

[28] Paragraph 1, Declaration Concerning Maritime Sovereignty, January 18, 1952.

Korean coastline.[29] Japanese officials were bitter, pointing out that Japan, while still occupied, had contributed to the military effort of the United Nations in Korea.[30] Japan had two other cogent reasons for opposing the Rhee Line: first, she lacked adequate space for grazing lands and had to look to the sea for protein food; and second, sea foods were a leading export item, second only to silk as an income-producing commodity. That Tokyo would protest was obvious. The Yoshida government argued that the Korean action was "incompatible with the long internationally established principle of the freedom of the high seas."[31] Seoul was unmoved by the charge. It supported its claim by citing similar declarations elsewhere.[32]

In September 1952 the issue was complicated further by the creation of a defensive zone off Korea. The United Nations Command had taken this step as a precaution against outside assistance to the Communist prisoners of war detained on Koje Island. When General Mark Clark established this zone, he advised the Japanese that it was "not at all for the purpose of imposing undue restrictions on Japan's fishing operations."[33] Even

[29] Kosaku Tamura, "The Rhee Line and International Law," *Contemporary Japan,* XXII (1953), 380. The author builds his case on reports of the International Law Commission. For maps showing the area protected by the proclamation see Japan Fishery Society, *Japanese Fishery and Korean War* (1954), p. 4; and Japan-Korean Fishery Deliberation Headquarters, *Appeal Concerning the Rhee Line* (1953), pp. 5-6; also Hong Kee Karl, *op cit.,* p. 12.

[30] "Foreign Office Explains Crisis," *Nippon Times,* October 23, 1953. See Shinji Taguchi, "Japanese-Korean Fishery Dispute," *Contemporary Japan,* XXII (1953), 394.

[31] "Japanese Government Note Verbale issued to protest against President Syngman Rhee's Proclamation, Documents," *Contemporary Japan,* XXII (1953), 390-391.

[32] "ROK Statement to Japan Note," (text) in *Nippon Times,* January 28, 1952. Specifically the note referred to those of the United States, Mexico, Argentina, and other Latin American countries.

Dr. Karl observed that Indonesia extended her sovereignty "as much as sixty miles from shore," and that the United States and Australia claim "rights to mineral and other natural wealth to be found on the Continental Shelf far beyond the so-called three-mile limit." See Karl, *op. cit.,* p. 5.

[33] Taguchi, *op. cit.,* p. 401; also *Japanese Fishery and Korean War,* p. 2, wherein it is stated that "Korean naval vessels proceeded immediately to subject Japanese fishing boats to unlawful search and seizure with the object of forcing them to withdraw not only from the Defense Zone, but even from the larger area enclosed by the Rhee Line."

though the zone was not created to impose restrictions, it did have that effect. A month after the Korean truce was concluded, the defense zone was lifted, an action considered premature by the Korean government.[34] Having lost a formidable ally, the South Korean government introduced a more drastic policy for enforcing the Rhee Line. Seoul issued a warning that all Japanese fishing vessels operating on the Korean side of the line after midnight, September 7, would be apprehended.[35]

Once more the Japanese government lodged a formal protest with the Korean Mission. It again refused to recognize the Rhee Line, arguing that there was no justification for it in international law.[36] Japan began to look around for a third power to mediate the dispute, and also considered the possibility of submitting it to the International Court of Justice[37] or the United Nations.[38] However, the Republic of Korea was not prepared to admit a third party. In fact, the Korean National Assembly transformed the presidential proclamation into municipal law through statute,[39] an act which further antagonized Tokyo.[40]

Despite frequent warnings Japanese fishermen continued to operate in the forbidden waters.[41] Early in 1953 a Korean patrol

[34] Karl reported that his nation was "shocked over General Clark's precipitate and unwise action in lifting the Korean Sea Defense Zone at a time when such protective measure [was] needed more than ever before."–*Korean Survey*, II (October 1953), 14.

[35] *Ibid.*, p. 14. The warning was given to a Japanese Fishery Board vessel when it encountered a Korean patrol boat forty miles east of Cheju Island.–*Nippon Times*, September 8, 1953.

[36] The Koreans countered that the proclamation did not claim "sovereignty over the high seas," and that there was no interference with legitimate sea traffic.–Karl, *op. cit.*, p. 5.

[37] Foreign Vice-Minister Akira Kodaki told the House of Councillors' Fishery Committee that the government intended to push these plans for outside mediation.–*Nippon Times*, September 11, 1953.

[38] *Ibid.*, September 15, 1953.

[39] *Ibid.*, December 3, 1953.

[40] *Ibid.*, December 15, 1953.

[41] In the first month after the new policy was inaugurated, the ROK Defense Ministry reported violations by 1349 vessels; 22 of these were captured by the ROK Navy.–*Korean Survey*, II (November, 1953), 13. On January 28, 1954 Home Minister Paik told newsmen that the Korean Coast Guard would prevent further intrusions. The Koreans claimed that Japanese patrol craft, equipped with

boat fired on a Japanese fishing vessel, killing one of the crew.[42] Tokyo demanded compensation as well as assurances for the future.[43] The Chief of the Korean Mission informed the Japanese Foreign Office that the shot was intended only "to halt the fishing boat when it ignored a legal challenge of the Korean authorities."[44] This was tantamount to an admission of guilt, but the Koreans argued that, though only a warning had been intended, the incident was the culmination of at least three violations by the vessel in question.[45]

This trend of events angered the Japanese to the point where they, too, were ready to use firepower.[46] Threats to this effect were made by ministers in the Diet, but the Koreans were not deterred. As a result Yoshida asked General Clark to intervene.[47] Clark, after meeting with President Rhee, announced that the United Nations Command had hopes that friendly relations would be established. This optimism, however, was unjustified; tensions, instead of lessening, were increased by a new practice developed in Korea. All captured boats, equipment, and catches were confiscated by the Korean government, the seamen were indicted in Korean courts, and, on conviction, sentenced to prison terms ranging from six months to one year.

When diplomatic discussions were resumed in October 1953, the Japanese demanded the immediate release of all men and boats and the end of the seizures of Japanese craft.[48] Korea insisted that the Peace Line was necessary to prevent depletion of maritime resources; therefore, the proclamation would not be with-

radar, could detect approaching Korean cutters, and then order Japanese fishing vessels out of the area.—*Ibid.*, III (March 1954), 13.

[42] *Nippon Times*, February 14, 1953.

[43] *Ibid.*, February 20, 1953.

[44] *Ibid.*, February 22, 1953. The minister reminded Japan that she was profiting from the Korean conflict while remaining secure behind the lines.

[45] *Ibid.*

[46] *Ibid.*, February 24, 1953.

[47] *Ibid.*, February 26, 1953. The Foreign Office requested that the U. S. Navy prevent such incidents in the future. The Americans had been willing to drive away violators of the skies over Hokkaido; but in the one case Russian aircraft were involved, in the other, friendly patrol craft. And the U. S. was not in a position to note any great similarity between these two situations.

[48] *Nippon Times*, October 7, 1953.

drawn, nor the seizures stopped.[49] The conference was cut short by Kubota's remarks, previously referred to, leaving the fisheries question suspended.

On October 29 Foreign Minister Okazaki noted that there were two questions demanding immediate solution. The first was the "return of crews and vessels seized and being held in custody by the Korean side," and the second dealt with "fishing operations in the waters adjacent to Korea."[50] The foreign minister noted that the first question required

> urgent humanitarian consideration, and the government is, as an immediate first step, negotiating with the Korean side on the delivery of supplies to the captured seamen. We have also proposed the establishment of a Japanese mission in the Republic of Korea. In doing so, one of the main things we had in mind was the protection of these captured seamen.[51]

He also announced that "some quarters are considering measures to carry out by force" protection of fishing operations.[52]

Vice-President Nixon, who visited the Far East in late 1953, tried in separate discussions with Prime Minister Yoshida and President Rhee to lay the groundwork for a resumption of negotiations. His presence may have influenced Rhee, for in November, at a time when 416 Japanese fishermen were on trial in Mokpo District Court, the Republic announced that all Japanese would be released as soon as their trials were over. The change in policy, President Rhee said, was "to further friendship between Japan and Korea" because of their close proximity to each other.[53]

Apparently Yoshida considered this a hopeful development. He expressed, on November 30, his government's confidence that "a way to tide over the difficulties" would be found "in a spirit of conciliation on both sides."[54] Foreign Minister Okazaki

[49] *Korean Survey*, II (November, 1953), 13.

[50] Foreign Minister Okazaki's Speech at the Opening of the Extraordinary Session of the Diet, October 29, 1953.

[51] *Idem.*

[52] *Idem.*

[53] *Nippon Times*, November 14, 1953.

[54] Prime Minister Shigeru Yoshida's Administrative Policy Speech before the Diet, November 30, 1953, Current Topic No. 2, Embassy of Japan, December 10, 1953.

was also hopeful; he assumed that the purpose of the recent statement by the Korean government was the latter's desire for an adjustment of relations.[55] Actually, however, seizures continued. Ships and equipment were confiscated and auctioned off on orders from the President.[56]

III. TERRITORIAL DISPUTE

A barren, rocky, uninhabited island lies midway between Japan and Korea. At most it could provide shelter for fishermen caught in a storm at sea, and yet this island was dynamite-laden. After the announcement of the Rhee proclamation, the Japanese government had declared in protest that it did not recognize any claim of territorial rights over Takeshima.[57] The Japanese pointed out that in 1905 the island had been incorporated into Shimane Prefecture for administrative purposes.[58] They further noted that the San Francisco Conference clearly delineated Korea's boundaries in Article 2, and that there was no reference to the island.[59] On the other hand, the Koreans cited historical factors to prove that the island was legally theirs.[60]

Neither side would concede, and each found occasion to lodge protests when the island was invaded by the other. For example, Japan registered a protest with the Korean Mission in June 1953 when Korean fishermen "illegally" landed on Takeshima. This was followed by another protest, the next month, when a Japanese patrol boat discovered that Korean fishing vessels, carrying armed police, were operating off the "Japanese island" and fired when

[55] The fishing season was about to open and Okazaki stated that the government would "devise the necessary protective and precautionary measures for the fishing vessels concerned." See his speech to the 18th Extraordinary Diet.

[56] The Japanese did not estimate the total loss from these forced sales, but fifty-five fishing vessels, held by Korea in July 1954, were valued at over $500,000.

[57] Tamura, *op. cit.*, pp. 387-388. It was Takeshima to the Japanese and Dokto to the Koreans.

[58] See Okazaki's statements before the House Foreign Affairs Committee in *Nippon Times*, March 1, 1953.

[59] Okazaki noted that the island became a part of Japan before domination over Korea began. *Ibid.*

[60] Karl, *op. cit.*, p. 3.

the Japanese tried to land.[61] The Korean government also protested. It announced that a constant vigilance would be maintained to protect Korean fishing interests.[62] The claims and counterclaims gave way to action—the Japanese and Koreans took turns planting territorial signposts on the island and removing those erected by their opposites.[63] In the summer months of 1954 each nation tried to assert its sovereignty over the island by force. In June a thirty-man Japanese landing force occupied Takeshima, but the Koreans invaded with a greater number of troops and the island was left unquestionably under the latter's control.

On September 25, 1954 Japan tried to obtain an agreement to submit the dispute to the International Court of Justice.[64] In its appeal to Seoul the Japanese government stated that the proposal was necessary, since there was no likelihood that a settlement could be reached under prevailing circumstances.[65] The Korean government rejected the proposal, contending that it was a clever bit of strategy by which Japan had everything to gain and nothing to lose.[66] Dr. Karl announced that it would be unwise for Korea

> to agree to litigation over a portion of soil—already securely in her possession—[since] it might have been interpreted as uncertainty over the validity of ownership.[67]

The Japanese Foreign Office stated that there was no doubt of the validity of Japan's claim, but because of the Korean counterclaim to the island

> the Japanese government proposed that the dispute be referred for a decision to the most impartial and authoritative tribunal at the Hague. It is difficult to understand why the Korean govern-

[61] See news item in *Nippon Times*, July 14, 1953.
[62] Korean Mission's protest in *ibid.*, July 18, 1953.
[63] *Ibid.*, October 8 and 26, 1953.
[64] In September 1953 the Japanese government decided that the issue could be resolved only by submitting it to a third nation for mediation. Spokesmen said that the government would try to get the case before the World Court if the mediation attempt failed. See statement by Takeo Shimoda before the House Foreign Affairs Committee, *Nippon Times*, September 5, 1953.
[65] *Ibid.*, September 26, 1954.
[66] Karl. *op. cit.*, p. 4.
[67] *Idem.*

> ment has shunned the International Court of Justice. . . .
> So long as the Korean government refuses to accept the proposal that the Japanese government had made in sincere hopes of settling the dispute peacefully, the Korean government should assume entire responsibility for all complications arising from the Takeshima issues.[68]

Neither nation could foresee the course which the dispute would take, especially the one that it did take. In late 1954 the Republic of Korea issued a new stamp bearing a picture of the island. In Tokyo the Yoshida government announced that all mail displaying the stamp would not be handled by the Japanese Post Office.

IV. JAPAN AND THE KOREAN WAR

The material assistance which Japan rendered to the United Nations Command during the Korean War was, in the estimation of Prime Minister Yoshida, evidence of his government's devotion to the principles upon which the world organization was founded. South Koreans had a different concept of this contribution, one that was embraced in dollar signs. The Rhee government was convinced that Japan was enriching herself at the expense of the Koreans; and Seoul did not relish Japan's making huge profits from the life and death struggle.[69]

Military orders placed with Japanese manufacturers did keep production high during the war, and more than fifteen hundred Japanese seamen and technicians were employed to keep the supply of war materiel flowing into Korea. These workers were confined to floating barracks, facing immediate arrest if they ventured on Korean soil. Other Japanese, whose jobs kept them on the beach, lived in "barbed wire enclosures in American port areas."[70] For the time being the Rhee government could not be

[68] Embassy of Japan, *Japan Information*, I, No. 8, (December 5, 1954), 1.

[69] When Minister Kim responded to Japan's protest over the shooting of a Japanese seaman, he reminded the Japanese that they were profiting from the Korean conflict "secure behind our defenses," while the Koreans and the UN were engaged in a "desperate joint effort to stop Communist aggression."—*Nippon Times*, February 22, 1953. Dr. Karl stated that "Japan shed no blood" in the struggle, but Japanese "factories hummed with activity."—*Op. cit.*, p. 4.

[70] INS article in *Nippon Times*, March 16, 1953.

concerned about the source of goods, but it did request that the United Nations Command replace Japanese engaged in logistical support and repair work with Koreans.[71] Seoul suggested that the 521 Japanese seamen on American vessels be removed first; then, as Korean seamen became available, the thousand men manning Japanese-owned tugs and barges would be replaced. Japanese crane operators, ship repairmen, and those employed in skilled jobs would be removed last, since these more technical operations called for skills and training not possessed by a great number of Koreans.[72]

The conclusion of the truce in July 1953 eliminated this issue, but a related problem did arise. A rehabilitation program, under the auspices of the United States and the United Nations, was introduced.[73] Secretary of State Dulles and other American officials saw two benefits: the rehabilitation of Korea, and an outlet for Japanese goods. However, the latter objective did not appeal to the Korean government. Seoul was prepared to boycott the employment of Japanese technicians and to resist the use of Japanese goods in the program. Rhee claimed that his nation would become an economic slave of Japan if the American proposal was implemented.[74] Presently, however, he expressed willingness to accept Japanese goods if they could meet the tests of quality and price. But by December 1953, when an economic agreement was concluded with the United States, it was apparent that he had not lost interest in point of origin. The United States and Korea agreed that materials necessary for rehabilitation would be purchased from Japan only as a last resort.[75]

[71] *Ibid.*, October 29, 1952.

[72] *Ibid.*, March 16, 1953.

[73] For a complete study of the rehabilitation program see John P. Lewis, *Reconstruction and Development in South Korea* (National Planning Association, December 1955).

[74] *Nippon Times*, August 26, 1953. Rhee included this argument among others in stating that America was rebuilding Japan as a leading military and economic power in Asia, but that Asian nations wanted no more of Japanese bondage "whether military, economic, or both."–"The Korean Dilemma," p. 5.

[75] See announced terms of agreement in *Nippon Times*, December 16, 1953.

V. AMERICAN NON-INTERVENTION

No solution was found to any of these weighty problems. Success was not possible in an atmosphere of hate and suspicion. There was no give and take and no compromise. Not a single issue was resolved during Yoshida's premiership, and his successor, Ichiro Hatoyama, was no more successful. A change of face on just one side brought no change in the situation.

The United States has been interested in the several attempts made by Japan and Korea to settle their differences amicably. Indeed, it had to be since these nations were outposts along the anti-Communist defense perimeter; the success of the American-inspired containment policy was dependent upon effective co-operation among subscriber nations. But America's interest in a successful search for solutions did not lead to an active role.[76] There was a question whether the United States should risk failure by itself entering the delicate discussions. The risk was considered to be too great, and the United States decided to stand clear.

Despite its self-imposed role of onlooker, the United States did try indirectly to influence the two nations. During Vice-President Nixon's goodwill tour in the Far East, he stated, in addressing the America-Japan Society, that he had been asked frequently about the failure of the two Asian nations to resolve their problems and to establish friendly relations. He advised the Japanese that the United States had taken the position that the conflict of interests could be worked out by mutual agreement.[77] After Nixon's visit to their respective capitals, Yoshida and Rhee announced that they were willing to adjust relations. Korean eagerness was conditional, however, for the Kubota remarks had first to be withdrawn.[78]

[76] When Japanese property claims were made, the State Department disagreed with Japan's interpretation of Article 4. Seoul found comfort in the announcement, but this was dispelled when another American announcement emphasized the neutral stand taken by the United States "with the hope that the parties concerned would settle the matter themselves." See Foreign Minister Pyun's statement in *Periscope on Asia* (Korean Pacific Press, June 30, 1952).

[77] R. M. Nixon, "To the Japanese People," *Contemporary Japan*, XXII (1953), 372.

[78] See Premier Paik Too Chin's demand for a sign of sincerity from Japan, *Korean Survey*, II (December 1953), 14.

No serious effort to resume negotiations was made until May 1954, when Okazaki told a foreign press conference in Tokyo that the Japanese were "willing to withdraw the so-called Kubota statement if it was the stumbling block for the resumption of Japanese-Korean talks."[79] His statement paved the way for informal talks between Sadao Iguchi and Yang You Chan in Washington.[80] Ambassador Iguchi stated that his government was prepared at any time to resume talks with the Korean government if a spirit of mutual concession prevailed.[81]

In the meantime Japan, with assistance and prodding from the United States, moved toward the creation of the Self-Defense Forces, a portentous project in the eyes of Koreans. Korean officials expressed alarm, claiming that Japanese leaders welcomed American military asistance as a means for handling "local disputes such as those with South Korea."[82] The Korean government felt insecure in the light of this most recent development. In a speech of May 1954, President Rhee stated that Japan was still dreaming of the conquest of Korea.[83] The creation of the Self-Defense Forces was welcomed in some quarters of the anti-Communist world, but for Koreans it was something out of the past threatening their existence. Korea's fears were again evident in Rhee's statement at Manila, when SEATO was created. He charged that Japan was the aggressor in the Japan-Korean dispute and advised the United States to stop its efforts to create a Japanese military machine stronger than that of any other Asian nation outside the Communist camp.[84]

[79] Embassy of Japan, *Japan Information*, No. 5 (October 5, 1954), p. 4.

[80] Japanese and Korean ambassadors to the United States.

[81] *Japan Information*, No. 5, p. 5.

[82] *Korean Survey*, III (May 1954), 13.

[83] *Nippon Times*, May 16, 1954. Rhee spoke at an American Armed Forces Day rally in Seoul. On another occasion, when it was suggested that Rhee meet with Yoshida to resolve the problems, he stated that he considered the Japanese Prime Minister "a fair-minded person," but that Yoshida had declared that Japan would "settle the Korean problem" when her forces were strong enough. Rhee stated that his countrymen "naturally resent such an attitude." See his statements in *Korean Survey*, III (May 1954), 13.

[84] *Nippon Times*, August 30, 1954. This is Rhee's thesis in the article, "The Korean Dilemma," pp. 3-6.

VI. CONCLUSION

Washington has refused the role of honest broker, urging Japan and Korea to work out their problems through direct negotiation. Yet the United States has been influential in these past several years. Seeking a strengthened defense perimeter, the United States has contributed, inadvertently, to Korea's feeling of inferiority and insecurity in her relations with Japan. America cannot escape this offshoot of her main objective.

If seen through American spectacles, the international tensions created by the cold war are the most portentous. Elsewhere in the anti-Communist world the distinction between black and white is not so apparent. Ideologically, Japan and Korea are anti-Communist; geographically, no nations are closer to the Moscow-Peking Axis. Americans assume, within the context of current world politics, that these factors add up to militant anti-Communism. But the American assumption, drawn as it is in black and white terms, neglects another factor—animosities within the anti-Communist camp.

At one time, while defending his foreign policy in the Diet, Prime Minister Yoshida criticized those who cherished the "feudalistic" concept of sovereignty. He noted that a new concept, collective security, had supplanted the archaic one.[85] Subsequent events belie the demise of national sovereignty. Neither his nation nor that of Syngman Rhee was willing to subordinate national interests by creating a common front against a common enemy. Anti-Communism has not developed a formula for the reconciliation of conflicting national interests.

[85] Japan, Ministry of Foreign Affairs, *Japan: Her Security and Mission* (Tokyo, 1952), p. 14.

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The Politics of Metropolitan Area Organization *

I

THAT THERE is a critical need to integrate local government organization in the metropolitan areas has become an article of faith with practically all who are concerned with urban affairs. In the last thirty years eighty-eight major surveys have been made of metropolitan organization, and at the present time in almost every metropolitan area at least one official or unofficial body is endeavoring to bring about a "rationalization" of government structure by annexation, consolidation, federation, functional transfers, creation of special districts, or some combination of these.[1]

Despite all the study and talk, not much has been accomplished. If school districts are left out of account, the number of local governments is increasing, and no metropolitan area is yet possessed of a government able to deal with a number of functions on an area-wide basis. Of the eighty-eight major surveys, only three were followed by the adoption of major recommendations.

Probably one reason for this is that the metropolitan area "problem" is to some extent spurious. That there are (for

* This article is based upon part of a report written with Morton Grodzins for *Action* (The American Council to Improve Our Neighborhoods) on "Housing Policy and the Government of Metropolitan Areas." An earlier draft was presented before a panel of the American Political Science Association in September 1956. The writer wishes to acknowledge *Action*'s courtesy in permitting use of material here and to express appreciation of criticisms from Professors Charles R. Adrian, Michigan State University, Morton Grodzins and Martin Diamond, University of Chicago, and Martin Meyerson, University of Pennsylvania.

[1] For an account of these endeavors see the Council of State Governments, *The States and the Metropolitan Problem* (Chicago, 1956), especially pp. 130-32. See also the annual articles in the *Municipal Yearbook* and the elaborate forthcoming bibliography compiled by the Government Affairs Foundation.

example) 1,071 independent local governments in the New York area may not be as bad as it is made to sound. Perhaps there should be even more. There are some real and important problems of metropolitan organization, of course, but the "one local government for one local area" idea reflects a taste for symmetry, simplicity, and, in a special sense, logic.[2]

To the extent that the movement for metropolitan area organization arises out of these naive biases its political failure is accounted for. But the problem is by no means wholly illusory and so some additional explanation for the failure of reform is needed. This article is intended to supply it.

II

If we look at the facts of political arithmetic (as demography was once called), we see that profound changes are underway. The electorate, already predominantly urban, is rapidly becoming overwhelmingly so. About 60 per cent of the population live in 171 standard metropolitan areas and about 30 per cent live in the 14 largest of these areas.[3] As Table 1 shows, the metropolitan areas are expected to grow fast both in absolute numbers and as a proportion of the whole population. Central cities are expected to grow relatively little. The big increases will come in the fringe areas.

These population movements are changing the character of both the central cities and the suburbs. "The central cities," Woodbury has written, "will become increasingly the place of

[2] The principle of "one local government for one local area" was recommended in the Council of State Governments, *State-Local Relations* (Chicago, 1946). In the report on housing policy referred to above, Morton Grodzins and the writer have shown that although "fragmentation" of government structure in metropolitan areas impedes improvement of the housing situation in some important respects, the effect is on the whole a good deal less serious than is commonly supposed.

[3] As defined by the Census, a standard metropolitan area is a county or group of contiguous counties which contain at least one city of 50,000 inhabitants or more. In addition to the county or counties containing such a city, or cities, contiguous counties are included in a standard metropolitan area if according to certain criteria they are essentially metropolitan and are socially and economically integrated with the central city.

TABLE 1

Estimates of Population Growth: Metropolitan Areas
(in thousands)

	Population 1955 (civilian)		Increase 1950-55 (estimated)[a]			Increase 1955-75 (projected)[b]		Population 1975 (projected)[c]		
	Number	Per Cent of Total	Per Cent for Area	Number	Per Cent of Total	Number	Per Cent for Area	Number	Per Cent of Total	Change in Per Cent of total from 1955
U. S. A.	161,461	100	7.9	11,827	100	56,000	34.8	218,000	100	
Standard Metropolitan Areas	95,304	59.0	13.7	11,508	97.4	54,544	56.8	150,000	69	+ 10
Central Cities in SMA's	51,023	31.6	3.8	1,888	16.0	8,960	17.5	60,000	28	− 4
Urban Fringe	28,236	17.5	19.1	4,526	38.3	21,448	76.1	50,000	23	+ 5
Rural Fringe	16,045	9.9	46.5	5,094	43.1	24,136	150.0	40,000	18	+ 9
Outside Metropolitan Areas	66,157	41.0	0.5	319	2.6	1,456	2.2	68,000	31	− 10
Urban	24,217	14.9	5.0	1,150	9.6	5,376	22.2	30,000	14	− 1
Rural	41,940	26.0	− 1.9	− 831	− 7.0	− 3,920	− 9.4	38,000	17	− 9

[a] U. S. Census, Series P-20, No. 63.

[b] "Population Trends in the U. S. Through 1975," Stanford Research Institute, August, 1955. Distribution assumed to be in the same proportion, by type of area, as for the 1950-1955 increase.

[c] These figures include the same deduction for non-civilians made in Census estimates of the 1955 distribution. The actual Stanford projection for 1975 is 220,794,000.

Source: *Architectural Forum*, 105, No. 3 (September 1956), 112-113. Copyright 1956 by Time Inc. Quoted by permission.

residence of new arrivals in the metropolitan areas, of nonwhites, lower income workers, younger couples, and the elderly."[4] The rate at which the Negro populations of the larger central cities are increasing is one of the most striking features of the situation. A pioneering study by Bogue suggests that in ten years the nonwhite population of Chicago may be more than 900,000 (23.4 per cent of the whole) while that of the suburbs will be less than 200,000 (6.4 per cent of the whole).[5] As Figure 1 shows, Negroes have accounted for much of the population increase in large central cities but for little of it in the suburbs.

It is not easy to generalize about the suburbs. "Dormitory" suburbs within commuting distance of the big cities are predominantly middle and upper income.[6] But many once fashionable suburbs are fast becoming slums or near-slums.[7] There are also, of course, many industrial suburbs, particularly in the northeast. The movement to the suburbs is in many places a levelling one: the high concentration of upper-income, upper-educated, upper-class people in the suburbs is being diluted by migration from the central cities and from rural places. By and large, the dilution is with respect to the suburban "ring" as a whole: each individual suburb may retain a fairly homogeneous character while the character of the ring as a whole changes. "To some extent," Lubell has remarked, "the suburban exodus appears to have revived the old patterns of segregation. Around New York City there are suburban districts which have become as heavily Jewish, or Italian, or Irish in family ancestry as were the ghettos or 'Little Italy's' or 'New Erins' of the lower East Side of twenty-five years ago. The old-law tenements of the East Side have given

[4] Coleman Woodbury, "Suburbanization and Suburbia," *American Journal of Public Health*, XLV (January 1955), 9.

[5] Donald J. Bogue, *An Estimate of Metropolitan Chicago's Future Population: 1955 to 1956*, published jointly by the Chicago Community Inventory, University of Chicago, and the Scripps Foundation, Miami University (Ohio), Feb. 2, 1955.

[6] For a comprehensive statistical account of these differences see O. D. Duncan and A. J. Reiss, Jr., *Social Characteristics of Urban and Rural Communities, 1950* (New York, 1956).

[7] See the table on substandard dwelling units in suburban areas in Victor Jones, "Local Government Organization in Metropolitan Areas," *The Future of Cities and Urban Redevelopment*, ed., Coleman Woodbury (Chicago, 1953), p. 511.

WHITE AND NONWHITE POPULATION GROWTH: 1940 to 1950
IN MAJOR STANDARD METROPOLITAN AREAS
CITIES
SUBURBS
TEN THOUSANDS OF PERSONS
0 10 20 30 40 50
0 10 20 30 40 50 60 70 80 90 100
NEW YORK
CHICAGO
PHILADELPHIA
LOS ANGELES
DETROIT
BALTIMORE
CLEVELAND
ST. LOUIS
WASHINGTON
BOSTON
SAN FRANCISCO-OAKLAND
PITTSBURGH
MILWAUKEE
HOUSTON
BUFFALO
NEW ORLEANS
MINNEAPOLIS-ST. PAUL
CINCINNATI
WHITE
NONWHITE
PREPARED FOR THE PHILADELPHIA COMMISSION ON HUMAN RELATIONS BY THE PHILADELPHIA HOUSING ASSOCIATION JUNE 1953
SOURCE: U.S. CENSUS
Used here with permission.

FIGURE 1.

way to ranch houses with sylvan settings and neatly cultivated lawns. Yet the walls of discrimination and intolerance still stand."[8]

TABLE 2

Democratic Vote as a Percentage of Major Party Vote, Central City and Suburbs, 1954

New York City	65.9
Suburban Counties	
Rockland	40.7
Westchester	35.3
Nassau	36.1
Suffolk	30.9
Chicago	64.2
Cook County except Chicago	40.5
Philadelphia	57.7
Montgomery County	38.1
Detroit	66.9
Wayne County except Detroit	57.1
Pittsburgh	56.8
Allegheny County except Pittsburgh	54.3
St. Louis City	62.0
St. Louis County	45.0
San Francisco	49.3
Suburban Counties	
Marin	35.2
San Mateo	40.8
Cleveland	70.0
Cuyahoga County except Cleveland	51.4
Minneapolis	58.8
Hennepin County except Minneapolis	47.2
Buffalo	52.8
Erie County except Buffalo	36.9
Milwaukee	59.8
Milwaukee County except Milwaukee City	45.5
Cincinnati	43.8
Hamilton County except Cincinnati	39.2

Source: Based on data from R. M. Scammon, *America Votes*, Government Affairs Institute, 1956. Except for St. Louis City and St. Louis County, which were for President in 1952, the votes were for governor or senator.

In general the large cities are heavily Democratic and the suburban rings heavily Republican. (See Table 2.)

[8] Samuel Lubell, *The Revolt of the Moderates* (New York, 1956), p. 246.

It seems likely that the central cities will become more and more Democratic.[9] Those who are leaving them for the suburbs include a disproportionate number of Republicans and of the upward mobile people who are likely to become Republicans. Their places are taken almost entirely by poor whites from the South, Negroes, Puerto Ricans and Mexicans. At least four-fifths of these are normally Democratic.

There is, of course, a possibility that in the struggle over school integration the Negro will lose his allegiance to the Democratic party. In the 1956 election the Negro Democratic vote fell off dramatically in some places, particularly in the South. In certain places in the North, the Republicans made impressive percentage gains. These gains do not necessarily reflect shifts in party allegiance, however. For example, in Congressman William Dawson's district in Chicago the Republican share of the vote increased from 26.5 per cent in 1952 to 35.5 per cent in 1956. But this percentage increase does not reflect an important absolute gain to the Republicans: while Dawson's vote dropped from 95,899 to 66,704, that for his opponent climbed only from 34,571 to 36,847. Thousands of Negro voters, impelled by slum clearance or other circumstances, had moved into other districts where—presumably—they were still voting heavily Democratic.[10]

[9] The Democrats lost many of the central cities in 1956. Stevenson got 48.7 per cent of the vote in Chicago (and only 27.7 per cent in the rest of Cook County!). But in Philadelphia he got 56.9 per cent.

That President Eisenhower carried the central cities signifies nothing for the future since he cannot run again and no other Republican will have his popularity. Besides, in this context the important elections are the local ones. In these the Democratic vote is more reliable.

[10] In four Black Belt wards of Chicago registrations dropped 15 per cent from 1952 to 1956. In 1952, 75 per cent of those registered voted; in 1956 only 71 per cent voted. If in three of these wards (2, 3 and 20) the smaller number of voters had divided between the parties in the same proportion as in 1952, the Democratic candidate for governor would have got 11.5 per cent more votes than he actually did get. In the fourth of these wards (4) there was no net change in registration and the Democratic candidate for governor got 29 per cent fewer votes than in 1952. In these wards Eisenhower ran 9 per cent ahead of the Republican candidate for governor; in Chicago as a whole he ran 25 per cent ahead.

In the three most heavily Negro wards of Philadelphia (30, 32 and 47) Stevenson got 79.3 per cent of the vote in 1952 and 75.5 per cent in 1956. The total vote in these wards was 10 per cent less in 1956 than in 1952. In the Negro wards Eisen-

The Republicanism of the suburban rings is being diluted by the movement into them from the central cities and rural areas. "Hillbillies" and Negroes are moving into suburbs which not long ago were solidly middle-class and solidly Republican. Indus-

TABLE 3

Republican Vote as a Percentage of Major Party Vote, Suburbs, 1948 and 1954.

Suburban Area	1948	1954	Per cent Increase or Decrease 1954 over 1948
New York Suburbs			
Rockland County	61.2	59.3	−1.9
Westchester	64.8	64.7	− .1
Nassau	72.2	63.9	−8.3
Suffolk	72.1	69.1	−3.0
Cook County except Chicago	64.6	59.4	−2.8
Montgomery County (Pennsylvania)	67.5	61.9	−5.6
Wayne County except Detroit	44.3	42.4	−1.9
Allegheny County except Pittsburgh	46.7	45.4	−1.3
St. Louis County	52.6	55.0	+2.4
San Francisco Suburbs			
Marin County	57.2	64.8	+7.6
San Mateo County	56.8	59.2	+2.4
Cuyahoga County except Cleveland	60.6	48.6	−12.0
Hennepin County except Minneapolis	52.0	51.5	− .5
Erie County except Buffalo	55.7	62.8	+7.1
Milwaukee County except Milwaukee City	51.9	54.3	+2.4
Hamilton County except Cincinnati	58.8	60.7	+1.9

Source: 1948 figures computed from data in *The Political Almanac*, New York: B. C. Forbes and Sons, 1952. 1954 figures computed from *America Votes*. The 1948 figures are for a Presidential vote; the others are votes for governor or senator. These are not altogether satisfactory for comparison.

trial suburbs are growing like big Disneyland mushrooms. Even in the middle and upper class "dormitory" suburbs a good many of the newcomers are Democrats. However, the dilution of the

hower ran 1 per cent ahead of the Republican candidate for senator; in the city as a whole he ran 2.7 per cent ahead.

Republican suburban vote does not seem to be as great as, judging from the size of the population movement, one would expect. It may be that many of the central city Democrats who move to the suburbs become Republicans as soon as they learn what is expected of them in their new surroundings.[11] At any rate, as Table 3 suggests the Republican suburban vote has in general suffered little from the increase in population.[12]

[11] A *New York Times* story of May 31, 1956 summarized the views of suburban politicians in the New York metropolitan area on the reasons for this change of political allegiance: "One reason is a sense of property rights and a concern for tax rates that comes with the key to a suburban home and the mortgage. Another is a desire for social status and a feeling that it can be achieved by belonging to the 'right' social groups and parties. A third is a feeling that local conditions require a Republican enrollment if there is any hope of a consequent political career or political favors."

There is some reason to believe that in new suburbs many converts to Republicanism become disenchanted when schools go on three shifts, taxes rise, houses require repairs, and transit systems become overloaded.

[12] 1956 returns for most places are not at hand as this is written. However, it is clear that in the Philadelphia and Chicago regions, at least, the Republicanism of the suburban rings is somewhat diluted.

In Philadelphia suburbs the Republican percentages of the vote for senator were as follows:

	1952	1956
Montgomery County	65.6	62.5
Bucks "	61.4	52.6
Delaware "	60.8	58.9

U. S. News & World Report (Dec. 1, 1956) concluded that the movement to the suburbs of Chicago has not diluted their Republicanism. As evidence, it reported Eisenhower's percentage of the majority party vote as follows:

	1952	1956
Calumet City	42.9	54.5
Chicago Heights	52.5	64.0
Elmwood Park	62.8	71.8
Evanston	75.4	76.5
Harvey	56.8	65.7
Oak Park	76.9	79.1
River Forest	84.5	85.6
Wilmette	82.6	83.7
Winnetka	79.0	80.9

The data does not bear out the conclusion, however. For one thing, in half the suburbs cited the shift was only one or two percentage points, surprisingly little in view of Eisenhower's great popularity. For another, many of those who voted for Eisenhower are still Democrats and may be expected to vote Democratic as a general rule in the future.

III

These facts suggest that for many years to come it will be difficult or impossible to integrate local governments where the two-party system operates. Even if the proportion of Republicans declines sharply in the suburbs, metropolitan area government north of the Mason-Dixon line would almost everywhere be Republican government. In effect, advocates of consolidation schemes are asking the Democrats to give up their control of the central cities or, at least, to place it in jeopardy.

It may be that in time Democratic politicians will become so persuaded of the necessity of metropolitan government by the propaganda of the good government movement that they will support it against their own interest and that of their party. (Certainly many politicians are convinced of the merits of the merit system, although it has gone far toward undermining the party system.) Or it may be that the Democrats will be forced to accept metropolitan government by a public opinion which will have come to share the general bias of the experts in favor of symmetry and simplicity. These eventualities are not unlikely, but it will probably be a good many years before they are realized.

Three-quarters of the metropolitan areas lie entirely within a single county. From the standpoint of administration there is much to be said for city-county consolidation: it would make sense to endow county governments with the powers of cities and to organize them to exercise those powers efficiently. Schemes like this are being worked out in Miami, Atlanta, and Nashville, but it is highly unlikely that they will be tried where there is a two-party system. If Buffalo, for example, were to be consolidated with Erie County, control over it would pass from the Democratic party to the Republican. If Chicago were consolidated with Cook County, the Democrats would have a fighting chance of capturing it. But as matters now stand control of Chicago is a sure thing for the Democrats. Why should they change?

City-county separation will be unacceptable for the same reason. If Chicago—to take a typical case—were made a county by itself, apart from the rest of Cook County, the Democrats, although their control of the city would not be jeopardized, would no

longer have a chance in Cook County. That would be safely Republican.

For the same reason that they will refuse to turn all of their powers over to a Republican county government, the Democrats of the central cities will refuse to turn over some of them to special function districts. Recently Sheriff Joseph Lohman of Cook County, a good government and planning-minded Democrat (he was formerly chairman of the Washington, D. C. Planning Commission), observed that law enforcement in the Chicago metropolitan area is " hamstrung " by limited jurisdictions and resources. He proposed putting the 11,000 policemen who now serve more than two hundred governmental units within the county under nine elected commissioners and suggested that a police commissioner be elected from each of nine wedge-shaped districts extending from the center of Chicago to the county line. The plan attracted no support from either Lohman's fellow-Democrats or from the Republicans. Obviously the Democrats are not going to give the Republicans the chance—the very good chance—of controlling the police of the central city. Nor are the Republicans going to run the risk of letting control of their suburban police fall into the hands of the central city Democrats.

There will probably be some instances—Detroit and Wayne County appear to be one and Pittsburgh and Allegheny County another—where the number of suburban Republicans is too small to make much difference. Consolidation may be possible in these cases. They will be few, however.

The Republicans outside of the central cities will of course want to remain apart: they are as well satisfied with a one-party system as are the Democrats of the central cities.

It would be a mistake to suppose that the conflict lies altogether or even mainly between the two party organizations or among the professional politicians who have a stake in them. The party differences are important in themselves, but they reflect deeper and still more important differences. Metropolitan government would mean the transfer of power over the central cities from the largely lower-class Negro and Catholic elements who live in them to the largely middle-class white and Protestant elements who live in the suburbs.

It should be remembered that between the central city resident and the suburbanite there are also differences of interest which have no necessary connection with race or class. If overnight all of the people of the central cities were transformed into middle-class white Protestants, there would still be the basis for conflict between them and the suburbanites. It would still have to be decided, for example, whether thousands of central city residents should be relocated to build expressways to give suburbanites quicker access to the city as well as how taxes to pay for such improvements should be levied. In St. Louis a metropolitan transit scheme failed of adoption recently apparently because of fears that improved service for suburbanites would be paid for by the fares of central city residents. Such instances abound.[13]

The situation will not be altogether different where the city is non-partisan. The major parties are alive and watching for their chances even in non-partisan cities. But even if they were not alive, the fundamental differences of interest and of status which separate the central city and the suburban populations would nevertheless be expressed at the polls and elsewhere. In non-partisan Milwaukee Mayor Frank P. Zeidler recently complained that influential suburbanites—leaders of industry, of business and real estate, and of the press; presidents of utilities; attorneys; and trained technical persons—"working through their suburban governments and especially through the county government and state legislature . . . can exercise an almost compulsory power on the city." Through the process of functional consolidation, Mayor Zeidler said, "the city is being stripped of more and more of its desirable functions, but it is being left with its problems—especially the social problems."[14]

The few Republicans of the central cities and, in general, the good government forces—in short, all those who want to weaken the Democratic machines—will favor adding the suburban vote to the central city vote wherever the suburbs are predominantly

[13] See, for example, Daniel R. Grant, "Urban and Suburban Nashville: A Case Study in Metropolitanism," *Journal of Politics*, XVII (Feb. 1955), 93-95.

[14] Frank P. Zeidler, "A Course of Action for the City of Milwaukee for 1956 and the Following Years," multilith, undated, pp. 27-28.

middle or upper class. It is not surprising that in Kansas City, Mo., City Manager Cookingham annexed some fringe areas over their violent opposition. He knew that, bitter as they might be at forced annexation, in the long run they would have to side with him against the remains of the Pendergast machine.[15]

As the Negro tide rises in the central cities, many white Democrats will begin to think of annexation and consolidation as ways to maintain a white (but, alas, Republican!) majority.[16] Unless there is consolidation, some cities will probably have Negro mayors within the next twenty years. Negroes can be expected to oppose annexation and consolidation under these circumstances, of course, and if the issue were to be decided on the metropolitan scene they could probably prevent gerrymandering along racial lines. Rural—and therefore white—dominated legislatures will have the decisive say in these matters, however, and they will be almost immune from Negro influence.

There are fast-growing lower class, and even Negro, suburbs close to some central cities. Democratic politicians will not ordinarily have much incentive to annex these because the Democratic majorities in the central cities will be large enough without them. But where lower class suburbs are large enough to insure Democratic county government, one stumbling block in the way of city-county consolidation will not exist. There will be another in such cases, however: Republican legislatures will be reluctant to pass enabling legislation.

IV

Professor Charles E. Merriam was certainly right in declaring years ago that " the adequate organization of modern metropolitan

[15] See the account of this in the manuscript by A. Theodore Brown, " The Politics of Reform; Kansas City's Municipal Government, 1925-1950." It is interesting that the districts where Pendergast had been strong were almost decisively against annexation. Chapter X, p. 8.

[16] In Nashville, Tenn., six months after the removal of the poll tax in 1951, Councilman Glenn Ragsdale argued—successfully—that an annexation was necessary to offset the growing Negro vote in his district.—Creed C. Black, " The Politics of Metropolitanism; Opposition to Annexation in Nashville, Tennessee," unpublished Master's thesis, Department of Political Science, University of Chicago, August, 1952, p. 40.

areas is one of the great unsolved problems of modern politics." [17] The problem is not, however, as many seem to think, merely one of creating organization for effective planning and administration. It is also—and perhaps primarily—one of creating, or of maintaining, organization for the effective management of conflict, especially of conflict arising from the growing cleavages of race and class.

These needs may be incompatible to some extent: the organization which would be best for the management of conflict may not be best for area-wide planning and administration. Indeed, it may be that area-wide planning and administration would of necessity heighten conflicts by raising questions which can only be settled by bitter struggle.

Conflict is not something to be avoided at all costs. It may be well, nevertheless, to consider if there are not decisive advantages in the organizational arrangements which now exist—arrangements which, while handicapping or entirely frustrating some important undertakings, also serve to insulate opposed interests and to protect them from each other. In view of their differences, it may be well, despite the obvious disadvantages, that the peoples of the central cities and of the suburbs live largely in separate political communities.

This is not to conclude that area-wide planning and administration should not be attempted. They should be attempted through the political structures which already exist. Rather than enter upon the probably futile and possibly dangerous course of creating new bodies by consolidation or federation it would be better in those places where fundamental cleavages exist to look to the political leaders of existing jurisdictions to negotiate among themselves settlements on the basis of which action may proceed. In effect this means that the political leaders of the central cities must be expected to come to terms with the political leaders of the states. For this to occur it is not necessary that both sets of leaders be of the same party, but it is necessary that both have power. In short, the metropolitan area problem will have to be solved—insofar as it is solved at all—by strong mayors and strong

[17] In his preface to Victor Jones, *Metropolitan Government* (Chicago, 1942). p. ix.

governors engaged in political give and take. Where special function districts are required, their managers should be accountable to the voters, but not directly so, for this would entail the transfer of power from one electorate (and thus one party organization) to another, something which is usually not feasible even if desirable. Instead, the people who run such districts should be accountable to a committee of mayors, county supervisors, governors who have a stake in the matter or to a committee of their appropriate subordinates. In this way accountability can be secured without the necessity of changing radically the distribution of political power. On this basis it should be possible to bring together administratively areas which are growing apart politically.

Book Reviews

The Presidency in the Courts, by Glendon A. Schubert, Jr. Minneapolis: University of Minnesota Press, 1957. Pp. 366. $5.50.

There have been a number of books published in recent years dealing with the office of the President of the United States. There is no other office like it in the world and it deserves all the study we can give it.

Professor Schubert's book differs from other volumes on the Presidency; he looks at the office entirely through the eyes of the courts. I am not a lawyer and would not presume to comment on his use of the reported cases. But I find that his materials are well organized, he writes so that a layman can understand it, and he makes his point convincingly.

The thesis of the book is stated on page 4: "The people of the United States . . . undoubtedly expect that, should the occasion ever arise, the Supreme Court would uphold the majesty of the law against the pretensions of a usurper. History warns, us, however, that this assumption may be false: in every major constitutional crisis between the executive and the judiciary, the President has emerged the victor." There was, of course, a certain Monday afternoon in 1952 when I felt very much that the Supreme Court had defeated the President: the nation's steel mills were brought to a halt at a time of crisis both in East and West. Professor Schubert seems to feel that the *Steel Seizure* case might have had a different outcome if the Supreme Court had not looked at it as a conflict between the Chief Executive and the Congress, rather than between President and Court. He reminds us that a majority of the justices refrained from doubting or questioning the President's view of the facts in the situation. And I am glad that he reminds the reader that I had made it clear from the very beginning that I would abide by whatever decision the justices would hand down. Like Franklin Roosevelt, I feel that the Supreme Court may at times have to be urged but it should never be defied.

As I read Dr. Schubert's chapters, the *Steel Seizure* case is the one instance of recent date that casts doubt on his thesis. It should come as no surprise to anyone that I am pleased to see this unhappy decision

critically dissected by such expert hands. But, regardless of whether one agrees with Professor Schubert on this point or not, his thesis raises some quesions that are no longer legal but political in the highest sense of the word. They deserve to be pondered by thoughtful citizens.

The evidence collected in this volume suggests very strongly that, if the Presidency should ever fall into the hands of a man (or men) without morals and scruples, the Supreme Court would not prove an effective obstacle to the plans and designs that such a man might have, especially if the Congress followed his lead. I am not sure that this has to be so: we have had (and have) men on our highest court with moral courage enough to make their voices heard when the nation's basic freedoms are at stake—and I am confident that we will have judges like that in the future. Of course, this makes it vitally important that the selection of judges should be in good hands. The Presidency is once again shown as the keystone of our constitutional system. How its functions are seen and its duties discharged by the man elected to fill the position, this is what gives meaning and purpose to our government. What Professor Schubert has written reaffirms the position of strength that is the President's—and it is good and sound that he should remind us, in the words of the late Justice Jackson, that the highest responsibility our public officials have is "to the political judgments of their contemporaries and to the moral judgment of history."

HARRY S. TRUMAN

Independence, Missouri

Three Human Rights in the Constitution of 1787, by Zechariah Chafee, Jr. Lawrence: University of Kansas Press, 1956. Pp. 245. $4.00.

Individual Freedom and Governmental Restraints, by Walter Gellhorn. Baton Rouge: Louisiana State University Press, 1956. Pp. 215. $3.75.

Groups and the Constitution, by Robert A. Horn. Stanford: Stanford University Press, 1956. Pp. 187. $3.00.

Civil Liberties in the United States: A Guide to Current Problems and Experience, by Robert E. Cushman. Ithaca: Cornell University Press, 1956. Pp. 248. $2.85.

After a decade of books and pamphlets dealing with various aspects of civil liberties, it might be thought that little remains to be said. However, these four volumes, which illustrate several approaches to the same general topic, all offer stimulating intellectual fare.

Professor Chafee, in his *Three Human Rights in the Constitution of 1787*, searches history to continue the exploration he started in *How Human Rights Got Into the Constitution.* He describes the seventeenth century English struggles to secure the right of unlimited parliamentary debate, to restrict the use of bills of attainder, impeachment procedures, and ex post facto laws, and he concludes with a chapter on freedom of movement. Although the rationale in defense of some of these rights in twentieth century United States may rest on grounds other than those asserted by a Parliament against a Crown claiming absolute powers, it is of value to know the historic situations out of which the rights developed and to learn the concrete events which the framers of our Constitution had in mind when they insisted on certain constitutional guarantees. Chafee's central focus is on origins, but he does allude to contemporary problems and unresolved issues. The freedom of speech conferred on Congressmen, he points out, is the privilege to be tried and punished by their fellow members—not by any outside tribunal—for abusive use of language. Neither chamber, however, has ever disciplined any of its members except in the celebrated proceedings in the autumn of 1954 when a Senator was censured for using insulting language about fellow club members.

Chafee's investigation of Parliament's use of bills of attainder and impeachment indicates that they were primarily directed toward the King's ministers and were abandoned in favor of the more humanitarian and effective device of parliamentary responsibility. The framers' insistence upon restricting impeachment procedures to criminal offenses, Chafee believes, has contributed to the recent tendency to resort to measures dangerously close to bills of attainder in order to get rid of officials disliked by legislators. He believes that Congress' attempt to secure the dismissal of Lovett and associates and the test oaths now being required of many public officials are not precisely the kinds of bills of attainder the framers had in mind. However, these procedures do threaten due process and he counsels the Supreme Court to adapt the constitutional phrases to the realities of modern society. He reverses Justice Holmes' famous admonition and urges the judges to remember that they too are guardians of the liberties of the people.

The final chapter is of a different order from the first two. His study of English and American experience indicates that freedom of movement is only imperfectly guaranteed by the Constitution and shows how some human rights did not get into the Constitution. He does not argue that the Supreme Court or Congress should open the doors to all who wish to enter the United States, but he applauds the recent judicial thrusts at the State Department's doctrine that the right of an American citizen to travel abroad may be denied by the

Department at its own discretion. He also pleads for a more humane and common sense policy for temporary visitors and for those resident aliens who are now being banished by administrative fiat, often for acts done years ago with innocent intent.

Walter Gellhorn, in his *Individual Freedom and Governmental Restraints*, writes in the tradition of the essayists. In graceful and forceful language he protests the "mounting legislative and administrative insensitivity to the dignity of man as an individual." His is not a shrill "viewing with alarm," but a careful and informative discussion which opens with a consideration of the changing attitudes toward the administrative process. Until the late 1940's, those who spoke out against administratively imposed pains and penalties did so primarily in defense of business organizations. The liberals stoutly resisted Congressional attempts to expand judicial control over the independent regulatory agencies. But in the face of the recent drastic extensions of unreviewable administrative action—censorial powers, blacklisting of organizations, banishment of aliens, and so on—the Congressional champions of judicial review have been silent, whereas it is the civil libertarians who now emphasize the dangers. Gellhorn argues that the administrative discretion which so alarmed the conservatives is different in nature and consequence from that exercised today in the area of civil liberties. Such agencies as the National Labor Relations Board or Securities and Exchange Commission, he points out, are manned by experts who ascertain facts or make estimates of future events based on material dealing primarily with economic issues and always subject to some kind of judicial review. In contrast, those who decide which books are "obscene" or which men are "security risks" or are of "good character" may be specialists, but they are not experts. "No well defined educational process or routinized training," he writes, "has equipped them, as distinct from judges and jurors, to determine the delicate issues of philosophy, aesthetics, psychology, or political theory that arise in contemporary administration." Moreover the practical consequences of adverse judgments are not the same. The NLRB's rulings present an employer with "nothing more horrid than an injunction to go and sin no more"; in contrast, the decision to banish a book or a person, to deprive an individual of the right to practice his chosen occupation, to label a man as a "security risk" often have far more serious consequences.

Gellhorn's second chapter deals with the growing body of restraints on reading imposed by private, municipal and postal authorities. He emphasizes the lack of evidence to support any generalization that reading causes deviant behavior. He demonstrates the impossibility of defining obscenity precisely enough to leave safely the application of the standard to those with a taste for book-banning. He calls in

question the Post Office's use of the Foreign Registration Act to determine who shall be allowed to receive information from behind the Iron Curtain.

Gellhorn concludes with a description of the restraints on the right to make a living imposed by state licensing statutes. Private groups have been given the power to license all kinds of occupations from medical doctors to threshing machine operators. Frequently conditions are imposed that have no obvious relation to the "profession" involved—in Georgia applicants for a commercial photographer's license must pass a Wasserman test, Michigan sought to compel barbers to be American citizens, and so on. Residence requirements undermine the possibility of a young man going west—that is, if he wishes to be a chiropodist, tree surgeon, embalmer or any of the many occupations with antecedent local residence requirements. Furthermore, the danger inherent in "good character" standards is obvious. Although the story of licensing restrictions is not new, bringing together these scattered materials shows their cumulative impact and how close we have come to creating a modified guild system.

Robert Horn, in his *Groups Under the Constitution*, focuses attention on the law of associations which he suggests is emerging from Supreme Court decisions. His is a challenging and at the same time disappointing book. Taken as a commentary on the Supreme Court's activities, it stands high. Taken as a statement of a technique for organizing the materials of public law, it is less successful. After a brief review of the writings of classical theorists, Horn provocatively discusses Supreme Court opinions concerning religious freedom, church and state relations, trade union activities, political parties, and subversive associations. His analysis is refreshing and original. Many of his judgments are contrary to standard civil libertarian doctrine; all are expressed with wit and brilliance. Most readers will come away from these pages with a sharper understanding of the conflicting values.

The announced goal of discussing the emerging principles of the law of associations does not alter materially Horn's discussion of these decisions. What, then, is distinct about the law of associations? How does it differ from the law of freedom of speech, press, and the others out of which it grows? Horn returns to his central theme in the last chapter. Despite his title, his concern is not with groups in general but with organized groups. In discussing cases he refers to associations; in his more general comments, he refers to groups. However, he does not use the terms with precision. For example, he argues that the role of *groups* has become more significant in recent years. He supports this assertion by writing, "The Justices focus the light of their learning upon the individuals before the bar, but if one looks back at the rear wall of the courtroom, one can see, large and distinct, the shadow of

the group for whom the individual litigant stands." But this is hardly novel. It was just as true in the days of *Marbury v. Madison* and *Dred Scott* as it is in the days of *Brown v. Board of Education.* Moreover, it is as accurate a description of judicial activity in one area as another. Whether associations have become more actively involved in the judicial process in recent years cannot be demonstrated by pointing to the group basis of politics—all politics, all times, all places.

Horn places much reliance on five principles of the law of association, but they do not appear to be different from those applied in all areas, namely, that no rights are absolute and that government may promote or regulate both the right to associate and the rights of associations whenever it is in the public interest. Horn does not believe that the concept of the public interest is a "meaningless generality." He attacks those who deny that the public interest can be established scientifically or by rigorous logical techniques. He rejects the doctrine that it is what the President, Congress, or the Supreme Court says it is. Yet he is not very clear on how we determine which choice is in the public interest. He has many other challenging things to say ranging from the nature of American parties and politics to the symbolic function of security proceedings, but space limitations preclude further comment other than to urge a wide audience for this book.

Professor Robert Cushman, in *Civil Liberties in the United States,* provides a concise summary of the rules of law, primarily as pronounced by the Supreme Court, and indicates the issues involved in the area of civil liberties. Although frankly writing as a confirmed civil libertarian, Professor Cushman has avoided slanted comments and interjection of his own values. In not quite 250 pages he has given us a most useful manual.

JACK W. PELTASON

University of Illinois

United States Foreign Policy, 1945-1955, by William Reitzel, Morton A. Kaplan, and Constance G. Coblenz. Washington: The Brookings Institution, 1956. Pp. 535. $4.50.

This study employs the "problem" approach, a way of regarding American foreign policy that has been developed by Brookings in its post-war international research program. The method forces the consideration of policy in terms of concrete problems, putting the student in the shoes of the government official, who cannot escape the dilemmas of decision making. By exploring alternative courses of action, it emphasizes empirical over doctrinal factors.

This approach has the paradoxical effect of pointing up not the

freedom of choice of the policy maker but rather the extent to which he is hedged in by circumstance. There is no tendency in this account to take unfair advantage of hindsight and to preach in retrospect. The agonizing doubt of policy making is fully displayed and duly respected. It is candidly recognized that American policy has not conformed to the United Nations' pattern that was projected during the war. The assumption of the solidarity of the major allies, based on further assumption of a willingness to work for negotiated settlements, did not materialize. Instead the Soviet Union proved not only recalcitrant but dangerously threatening and the wartime collaboration broke down completely. The implications of this circumstance for a policy of generalized purpose and worldwide application, implemented through political institutions common to all nations, are fully acknowledged. Though recognizing the United Nations as a permanent factor in modern international relations, the authors do not gloss over the consequences for that institution of the actual trend of post-war politics. It was not a situation which the American policy maker could alter. It was one to which he had to adjust.

By 1947 the objectives of American policy had shifted; the image of a worldwide goal of general welfare sought through collective action had rapidly receded, to be replaced by the picture of a bi-polar world in angry and dangerous competition. Containment of the Soviet Union now became the dominant theme of American policy, first in the form of economic aid to the free world and, with Korea, in the form predominantly of strengthening military capacity to resist communism. But here again mere doctrine has run into trouble. In fact, the main point of the book is that at the end of the first post-war decade the American policy maker, if he is to maintain his influence abroad, is forced by circumstances to modify radically the mental picture of a bi-polar world. The Middle East and Southeast Asia are not without varying degrees of scepticism toward the Soviet Union, yet they are unready to rush into the arms of the United States. This, if I am not mistaken, the authors consider as a normal manifestation of the balancing process in politics and as another instance in which the policy maker should roll with the punch—making the best of a situation that is not, in fact, all bad.

The reviewer would, however, take exception in one important respect to the problem approach. Though it is a highly effective technique for dealing with recent and current issues of foreign policy, it is a poor device for painting in the historical background. There is no suspense, but only tedium, when alternative courses concerning past action are spelled out. The answers are already known. To be sure, the right choices may not have been made; yet doubt on that score could easily enough be indicated in a story told in a straight forward

manner. In this instance the reader's interest would have been sustained and much space saved had the simpler and more conventional kind of historical exposition been employed to cover the greater part of the period under review.

The chapter on Korea is exceptionally well done. From there on out, the book is highly rewarding and can be recommended with enthusiasm.

EDWARD H. BUEHRIG

Indiana University

France: 1940-1955, by Alexander Werth, with a foreword by G. D. H. Cole. New York: Henry Holt and Company, 1956. Pp. 764. $6.00.

Werth has a brilliant reputation as a reporter on French politics. In the inter-war years, as foreign correspondent of English newspapers in Paris, he interpreted and foreshadowed the fatal political stumbling of the Third Republic in *The Destiny of France* and other works. These exhibited unusual grasp of fact, flair for the significant, a highly skilled and illuminating judgment. The present work has the same estimable qualities. It is, above all, very abundant with facts, which are made vivid and realistic by frequent and ample quotation from French memoirs, diaries, commentaries and periodical articles. These give a satisfying sense of immersion in the stormy flow of French political life from the Capitulation to yesterday.

These fifteen years are seminal in French domestic and international politics. It was in this period that France fell and rose again, remade her constitution, resuscitated and to some degree remodelled her economy, and attempted to recover her international grandeur by imperious handling of her colonies and the establishment of a "third force" that would stand Europe between the U.S.A. and the U.S.S.R. This span of time is clear in its general outlines, yet obscure in the factors that are their content. For every month, every event, from the rise of Vichy under Pétain and Laval, was and still is the subject of the sharpest recrimination, of claim and counter-claim. Documents have been destroyed, or faked, or garbled, and the living witnesses have been killed or otherwise silenced. The political parties have written their own histories, and re-written them, too; the re-writing of history for today's political advantage is not a monopoly of Stalin or Krushchev.

Werth re-examines all the important phases and stages of French political evolution since 1940. He assays the responsibilities of political leaders, institutions, the pressure groups, the Church, the Army, Darlan

and the Navy, the constitution itself, for discarding the Third Republic and establishing the Vichy regime. Pétain, Laval, and their satellites are subjected to studious appraisal. Especially interesting is the examination of Laval's extraordinarily complex character, his mixture of motives, the connivance of others in the crimes for which he was executed. He looks a little better in this investigation than in the mouths of his opponents, while his political contemporaries and popular critics look less immaculate.

The story proceeds through the stages of collaboration with the Nazis, the tense and tortuous relations with the U. S. A. and the Allies and the French overseas possessions, to the evolution of the Resistance and the hopes after the Liberation. Considerable space is devoted to De Gaulle and the secrets of his strange personality. This man always pondered the problem of *charisma* in politics, but could not make it effective after the Liberation.

The morale, unifying and fervent, of the Resistance melted away, and the normal political parties, but slightly coiffured, returned to dispel its temporary solidarity. Yet the Resistance itself mirrored the discordant, even the mordant elements of French social dissensus; some may have been brave, but most were weak, and some were fake. The tendency to *immobilisme*, which had led to the downfall of the Third Republic, was pandemic. And that same pallid attachment of the people to their government, even to their nation, that had prevailed from 1871 to 1939, and under Pétain, came back to plague post-war France with *incivisme*, anti-social political behavior. It is all much the same as it used to be, except that the Communist party profited from the war, the prestige of the Soviet Union, and the comparative poverty of the French people, who would like to live well.

The book ends with the fall of Mendès-France. Werth has great sympathy for the cocky little premier, and deplores his fall, not least for its symptomatic qualities. "He was too ambitious. He now wanted to tackle the whole economic structure of France, and upset all apple-carts. He was disquieting—*that* was the word. The Right hated him with a kind of pathological hatred." There is a short epilogue, a valuable note on the contemporary French press, and a bibliography.

Werth's method is to present a thesis on each theme, then to illustrate it, especially by quotations, and then to restate it, as a kind of post-inductive exercise after the quotations. Either the first stage or the third is not needed, and their inclusion makes the work rather longer than it need be. But it also makes an abundant quarry from which scholar and student can bring up much precious ore.

HERMAN FINER

University of Chicago

Political Behavior: A Reader in Theory and Research, edited by Heinz Eulau, Samuel J. Eldersveld, and Morris Janowitz. Glencoe: The Free Press, 1956. Pp. 421. $7.50.

The editors of this volume have performed a very useful service for their colleagues in political science and for other social scientists by selecting, editing, and organizing materials which exemplify a cluster of relatively recent intellectual activities best characterized by the phrase "behavioral analysis of political phenomena." Publication of such a collection is both a symbol of an important set of developments and a source of salutary influence. Three basic purposes are evident: first, to demonstrate that a growing number of social scientists are dedicated to the clarification of the conditions under which the study of politics can become "a more mature social scientific discipline"; second, to call attention to significant additions "to the main body of political knowledge"; and third, to indicate what is meant by the "political behavior approach" through an orderly sampling of empirical work drawn from major areas of traditional concern. In pursuing these worthy objectives, the editors have provided a goldmine of ideas, research techniques, findings, hypotheses, propositions, and theoretical exercises applicable to all the subdivisions of political science. *Political Behavior* ought to function as a reference book, a research guide, and teaching aid. At this stage in the development of political science, stock taking is not easy. Dissatisfaction and groping have accompanied the effort to systematize political analysis. Fortunately, an awareness of regrettable misunderstandings and abortive controversies as well as a healthy skepticism in several sectors of the field have governed the preparation of this volume. Real progress is made toward the establishment of a sounder foundation for the evaluation of the directions and accomplishments of political behavior research. It is a definite advantage to have these key materials conveniently packaged and easily communicable.

Given the hard choices and difficulties involved, and given the reviewer's ignorance of what obstacles were faced, a quarrel over individual selections would be fruitless. Similarly, a brief review is not a proper place critically to analyse the political behavior movement from Bentley onward. However, the potential user is entitled to know what he can expect.

Some forty-one selections are presented (and briefly introduced by the editors) under six general headings which reveal the range of subject matter to which the approach has been applied. Section I, "Political Process and Political Behavior," consists, quite appropriately it would seem, of relevant writings from Wallas, Bentley, and Merriam.

Section II, "Requisites of Political Analysis," includes broadly methodological essays dealing with systematic theory, empirical investigation, and psycho-social ramifications of politics and political analysis. Political beliefs, participation, and apathy are treated under Section III, "Orientations Toward the Political Process." Under the heading "Agents and Techniques of Political Power" appear analyses of communication, leadership and group and party processes. The theme of Section V is political decision-making, with articles covering voting behavior, legislative processes, and organizational (i. e., administrative-bureaucratic) policy-making. A final section is devoted to "frontiers of theory." Most of the selections are solid and germinal, worth rereading and having handy on one's shelves. Moreover, more than adequate representation of the scholars, activities, and foci which have typified behavioral approaches has been achieved. An average of ten pages per selection, the product of careful editing, avoids artificial truncation.

The *Reader* is obviously based largely on the literature of political science. Of sixty writers represented (some items have multiple authorship), probably eighteen are not, strictly speaking, political scientists, though of course their work is widely known to the discipline. Twenty-one of the forty-one selections are drawn from political science journals, fifteen from *The American Political Science Review* alone. Only six articles are from professional periodicals outside the field, four of these from *Public Opinion Quarterly*, which is widely read by political scientists. Of the twelve books and monographs quoted, all are familar with the possible exception of three or four. Two essays were written especially for this occasion. It is worth noting in connection with the foregoing that in terms of the editors' own categories there has been a remarkable mushrooming of articles in the journals of psychology, social psychology, anthropology, sociology, and economics. There is ample evidence that such political behavior materials are not normal reading for the great majority of political scientists.

A good balance is maintained between selections which are primarily conceptual in nature and selections which are primarily concerned with data gathering and reporting. About half are of each type. Consequently there is no excessive preoccupation with either high level generality or specific data on limited subjects. Valuable summary essays surveying significant areas of research are included in the main substantive sections.

One criticism may be voiced. The editors have wisely refused to let false modesty disqualify their own contributions. However, their editorial comment *per se* comprises but a dozen pages at most. This comment is excellent as far as it goes, yet one has the feeling that the

far-reaching joint competence of the editors is underemployed. It would have been pertinent for them to raise in the clear context of their own creation, some of the fundamental questions implied by their selections—for example, the barriers and bridges between the behavioral disciplines with respect to the methods and objectives of political behavior research.

RICHARD C. SNYDER

Northwestern University

The Civil Service in Britain and France, edited by William A. Robson. New York: The Macmillan Company, 1956. Pp. 191. $3.50.

Treasury Control, by Samuel H. Beer. London: Oxford University Press, 1956. Pp. 138. 15 s.

Despite Britain's relatively diminished prominence in the comparative politics field, as contrasted with the problem areas of Asia or continental Europe, British institutions still provide much of the familiar material used in comparative analysis by American political scientists. One reason is that British government continues to be the subject of significant scholarly work by both Englishmen and Americans. Public administration is a striking case in point, and it is well illustrated by Robson's useful anthology on the civil service and by Beer's penetrating study of the Treasury.

Although its title suggests otherwise, Robson's volume is devoted almost entirely to British administration; only two of its fourteen essays are concerned with the French civil service. These two essays, by eminent French authorities, contain good brief descriptions of the structure and recruitment of the French service, but they have the equally useful purpose of showing, by comparison, some salient features of the British system. The authors of the remaining essays, most of which previously appeared in different form in a special issue of *The Political Quarterly*, are all Englishmen, writing from a variety of vantage points. Some are high-level civil servants, some are former ministers, and some like Professor Robson are academic scholars. Their essays reflect much of the usual satisfaction with many features of the British civil service, but there is some criticism which is of special interest. Robson, in his introductory chapter, calls attention to "the serious consequences of our prolonged refusal to grapple with the problem of providing the individual with a legal safeguard against possible injustices at the hands of the administrative state" (p. 12), and in a later essay he urges more social science training for future civil servants (p. 58). R. K. Kelsall notes, as he has at greater length in his own recent book, that the higher civil service still does not

recruit as fully as it might from "the largest reservoir of talent, the families of the lower-middle and working classes" (p. 160). More impressive than this point, however, to those familiar with the British service of the past, is H. R. G. Greaves's tabulation showing the post-war administrative class to have recruited more of its members by way of promotion from other classes of the service than by way of direct entry (p. 103).

Professor Beer's work on British administration has a very different scope from a book covering the whole range of civil service problems. Treasury control, which Beer analyzes in considerable detail, is treated in one chapter of Robson's volume. That this subject deserves extended treatment is apparent from the Treasury's wide powers over Britain's financial and economic policy. Beer rightly considers the subject significant enough to be considered apart from the personnel function of the Establishments side of the Treasury. His sophisticated discussion of the exercise of the Treasury's powers plainly owes much to the use of informal interviews to supplement documentary sources. Another excellent feature of the work emerges from Beer's awareness, from an American point of view, of the need to explain why the British Treasury has become the controlling agency for state intervention in the economy. As he writes, "In American government there is nothing really comparable to the most important form of Treasury control, the requirement of prior approval" (p. 25). Beer's major contribution is to point out the relationship which this control bears to the general British system of fixing responsibility in a collective executive.

Finally it should be noted that Beer also stresses the limitations of Treasury control. It is more negative than positive. It depends heavily on informal influence rather than command. Furthermore, in the economic sphere, as left-wing critics often complain, the basis of Treasury control is not physical planning, but budgetary and Keynesian.

LEON D. EPSTEIN

University of Wisconsin

Book Notes

Moscow and the Communist Party of India: A Study in the Evolution of International Communist Strategy, by John H. Kautsky. New York: John Wiley and the Technology Press of the Massachusetts Institute of Technology, 1956. Pp. 220. $6.00.

Although a study of the Communist party of India would normally be considered rather specialized, Kautsky's book should prove of wide interest because of its relevance to the understanding of relationships between Communist parties in non-Communist nations and the Soviet Union. By means of a brilliant and detailed case study, Kautsky confirms some current hypotheses with respect to the influence of Moscow on foreign Communist policies but also establishes that this influence, although strong, is not usually exercised by means of secret agents or vast conspiratorial apparatuses.

It will be surprising to many to discover, if the Indian example is representative, that Moscow's directives are usually public rather than secret, that the directives are often ambiguous or stated in negative fashion, and that "deviant" policies by the Indian party were often not corrected until long periods of time had elapsed. Moreover, Moscow apparently exercises only slight control over the choice of national Communist leaders (the Indian party autonomously dismissed leaders whose policies had received definite criticism in a Soviet journal or theoretical organ). The thesis, accepted in Washington, that the Calcutta Youth Congress of February, 1948, transmitted orders for armed uprisings throughout Asia is convincingly refuted.

Kautsky distinguishes three strategies open to Communist parties in Asia—the "right," the "left," and the "neo-Maoist." He then establishes the sequence in which the Indian Communist party adopted each strategy, the reasons for the choices, and the internal struggles within the Indian Communist Party over these choices. The distinction between "left" and "right" as strategy and as deviation is somewhat ambiguous and occasionally leads to difficulties in interpretation. Moreover, there may be some doubt whether the "neo-Maoist" strategy owes any of its elements to Mao or is as novel as Kautsky asserts. The real invention of Mao—the foundation of the party upon the peasantry—was never considered by the Indian party.

Kautsky also offers an interesting discussion of the disagreement between the wing of the Indian Communist party which desired to

view the United States as the major enemy and the wing which saw Great Britain as the principal threat. Joshi, the secretary general of the party, established the line that either emphasis was a deviation.

The Legacy of Holmes and Brandeis: A Study in the Influence of Ideas, by Samuel J. Konefsky. New York: The Macmillan Co., 1956. Pp. 316. $6.00.

Mr. Justice, edited by Allison Dunham and Philip B. Kurland. Chicago: University of Chicago Press, 1956. Pp. 241. $3.75.

Konefsky, author of a perceptive analysis of Chief Justice Stone's judicial decisions and editor of a collection of Justice Frankfurter's opinions, has now done a stimulating study of the most fascinating pair of justices in Supreme Court history. How did it happen that two men with such widely differing backgrounds and philosophies came to agree so often in their judicial decisions that Holmes spoke of "a sort of pre-established harmony" between them? One was a social conservative, a sceptic, a hard-boiled Darwinian, largely ignorant of economics, a generalizer who detested statistics or fact-grubbing. The other was a liberal, an idealist, a fighter for causes, a foe of economic bigness, a lawyer who believed the law sterile without economics and social science.

Many others before Konefsky have addressed themselves to this puzzle. He appears to have read everything ever written on this matter, and has integrated these views into his own discussions and the conclusions he draws from their judicial decisions, books, letters, and speeches. He maintains a judicial balance throughout, but in the end admits to a slight preference for the role played by Brandeis. "It is doubtful whether the rarefied objectivity typified by Holmes, even if it were attainable, is the best equipment for the arbitration of constitutional issues." "Because decisions on constitutional questions necessarily have far-reaching effects, it is of the utmost importance that those who make them not only understand the problems they have been asked to resolve but that they care deeply about the fruits of their labors. It is Brandeis' extraordinary gifts as a student of American society as well as the strength of his attachment to the imperatives of the democratic creed which make him the authentic leader of modern constitutional jurisprudence." This is a tempered, scholarly work of real insight and distinction.

Mr. Justice is a collection of lectures on nine Supreme Court justices arranged by the University of Chicago Law School. In several instances the lecturer was also a biographer of the justice with whom he dealt—Pusey on Hughes, Swisher on Taney, Fairman on Bradley, Biddle on

Holmes, Pascal on Sutherland. Three were law clerks of the justices they spoke about—Paul Freund for Brandeis, Allison Dunham for Stone, John P. Stevens for Rutledge. The ninth lecturer, and perhaps the most heterodox, was W. W. Crosskey on John Marshall. As readers of his treatise know, Crosskey believes that Marshall, instead of founding the basic tenets of American federalism, was actually defeated either by his own Court or the Taney Court which succeeded him. But he would still rate Marshall as "the great Chief Justice." These character sketches by men who know their subjects through personal contact or long study have the impact that comes with thorough mastery, effective condensation, and literary skill.

Charles Beard and the Constitution: A Critical Analysis of "An Economic Interpretation of the Constitution," by Robert E. Brown. Princeton: Princeton University Press, 1956. Pp. 219. $3.50.

This critical analysis of Beard's famous work on the formation of the Constitution will be an eye-opener to many readers. Despite Beard's own admission in the preface of the first edition that his work was "frankly fragmentary," and that he was publishing it in incomplete form because he did not expect to be able to do the research that would be required for a complete study, Beard's findings have been widely accepted, particularly in college level texts. Briefly summarized, Beard's contentions were that the Constitution was primarily the work of consolidated economic groups; that its ratification was secured by substantial property interests, particularly urban holders of personalty, against the opposition of small farmers and debtors; and that it was adopted by undemocratic methods.

Brown was originally led to question Beard's conclusions when his doctoral dissertation and subsequent studies convinced him that colonial Massachusetts was not a society of upper and lower classes, rich and poor, franchised and unenfranchised, but was rather a middle-class society in which most men owned property, were farmers, and could vote.

Brown's method of dealing with Beard is to analyze in detail each chapter of the *Economic Interpretation*, pointing to the paucity of data and to contradictory evidence. His conclusions are that the Constitution was adopted in a society which was fundamentally democratic, where there were no "propertyless masses," and where disenfranchisement was quite limited; that property was defended in the Convention because most people owned property; and that small farmers constituted such an overwhelming percentage of the voters that if they had opposed the Constitution it could not have been adopted. Brown

has made a strong prima facie case against further uncritical reliance on Beard's classic.

Public Administration and Policy Formation, edited by Emmette S. Redford. Austin: University of Texas Press, 1956. Pp. 319. $5.75.

In this volume Emmette Redford has brought within one cover the essential portions of five doctoral dissertations done under his supervision at the University of Texas. York Willbern writes on control of petroleum production in Texas, Ralph K. Huitt on national regulation of the natural-gas industry, Guy Fox on supervision of banking by the comptroller of the currency, Comer Clay on the Lower Colorado River Authority, and Hugh M. Hall, Jr., on the investigatory function of the Federal Trade Commission. These are all studies emphasizing the interconnections of public administration and public economic policy. The result is not a set of public administration cases, like those in Stein's casebook, but rather short institutional studies, written with an understanding of the impact social situations may have on administration and the impact administration may have on the course of events. As Redford says in his introduction, they provide "forceful illustration of the inseparability of policy and administration, dynamics and mechanics, purpose and technique."

The Fate of East Central Europe: Hopes and Failures of American Foreign Policy, edited by Stephen D. Kertesz. Notre Dame, Indiana: University of Notre Dame Press, 1956. Pp. 463. $6.25.

The Kertesz volume is one of the International Studies of the Committee on International Relations of the University of Notre Dame. The contributors—both American and refugee—maintain a good standard of scholarship and at the same time manage to discuss their subject in an interesting fashion.

After an introduction by Kertesz, the volume is divided into five parts: the course of American foreign policy in east central Europe between 1941 and 1955; the creation of the Soviet empire in Europe; the areas peripheral to the Soviet empire; the economic framework of bipolar world organization and particular problems arising from trade with the satellites; and American ideas for a free east central Europe.

The first four parts are of high quality. Part One in particular demonstrates that American policy planners were aware of potential dangers in east central Europe from Soviet imperialism as early as

1943, but could find no effective manner of forestalling Soviet plans in that area. The differences between Democratic containment and Republican liberation are demonstrated to be slight. The short concluding part on ideas for the future is vague, unsystematic, and touched by the frustrations of former leaders striving to appraise current realities and prospects.

The United States and World Sea Power, edited by E. B. Potter. Englewood Cliffs, N. J.: Prentice-Hall, 1956. Pp. 963. $11.75.

This book, the composite work of twelve members of the naval history faculty of the U. S. Naval Academy, is a comprehensive, coherent, and well-conceived account of the evolution of American naval power, written from the perspective of the influence of sea power on world history, with particular attention to recurrent lessons of grand strategy and naval tactics. The emphasis is on operational aspects of American naval power, and about one third of the operations analyzed concern the wars of the French Revolution and Empire and World War II. However, the book is distinguished by a largely successful attempt to place purely military events and developments within the context of international politics, and it does not shy away from judgments of national policy where military considerations are obviously fraught with great political significance. Not surprisingly, the dominant theme throughout supports the prevailing naval doctrine of the role of sea power, based upon Mahan's conception of protecting the lines of communication linking the insular base of continental United States with its territories and the centers of world power abroad.

The Rise of the Vice Presidency, by Irving G. Williams. Washington: Public Affairs Press, 1956. Pp. 266. $4.50.

As Edward R. Murrow notes in his introduction to this book, "no scholar could ask that a new work on his favorite subject should appear with greater timeliness." Williams provides as interesting an historical account as the often dull subjects permit, of the thirty-six men who have become Vice Presidents of the United States. The attention of readers will focus on two aspects of the book. One is the account—rather superficial, but with an obvious effort to achieve unbiased treatment—of the career and activities of Vice President Nixon. Second is his (to this reviewer) fantastic proposal for dealing with the perplexing problem of Presidential inability. Williams' idea

calls for an official "court physician" and an Inability Committee composed of the Chief Justice, Secretary of State, Speaker of the House, and majority and minority leaders of both houses. The physician would examine the President periodically, and if he found evidence of inability he would report to the Vice President, who would convene the Inability Committee. By majority vote they would determine whether the President was disabled. If they so voted, the Vice President would assume the office, which he would then hold for the remainder of the term so as to avoid the problem of having to decide when and if the original President had regained his physical powers.

OTHER BOOKS RECEIVED

The Supreme Court Speaks, by Jerre S. Williams. Austin: University of Texas Press, 1956. Pp. 465. $5.95.

Hoosiers Go to the Polls, by James A. Riedel. Lafayette: Indiana Citizenship Clearing House. Pp. 33.

Intergovernmental Fiscal Relations, by William Anderson. Minneapolis: University of Minnesota Press, 1956. Pp. 131.

Compulsory Voting, by Henry J. Abraham. Washington: Public Affairs Press, 1955. Pp. 38. $1.00.

Foreign Policy and the Democratic Process, by Max Beloff. Baltimore: The Johns Hopkins Press, 1955. Pp. 134. $3.00.

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